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ANIMALS AND THEIR LEGAL RIGHTS



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COVER PICTURE: *Sir Edwin Landseer, one of the great English Romantic painters, had a strong vein of humor and satire and an understanding eye for animals, both wild and domestic. "Laying Down the Law" combines observation of contemporary courtroom manners and mores with the sometimes similar facial expressions of human beings and of dogs. This was the late Duke of Devonshire's favorite painting. (Reproduction of painting courtesy of The Chatsworth Trust.)*

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Printed on Recycled Paper

Library of Congress Card Number 90-82319

FIRST EDITION, 1968

SECOND EDITION, 1970

THIRD EDITION, 1978

FOURTH EDITION, 1990

Printed in the United States of America

Animals and Their Legal Rights

**A Survey of American Laws
from 1641 to 1990**

With Chapters by

The Animal and Plant Health Inspection Service
of the United States Department of Agriculture,
Bianca Beary, Fay Brisk, Diane Halverson,
Emily Stewart Leavitt, Cathy Liss,
Shirley McGreal, Greta Nilsson,
Valerie Stanley, Christine Stevens,
and Pearl Twyne.

ANIMAL WELFARE INSTITUTE

The fourth edition of
Animals and Their Legal Rights
is dedicated to the memory of
the gifted and beautiful actress,
Rosemary Ames,
whose generous bequest
made its publication possible.

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ACKNOWLEDGMENTS

When Emily Leavitt began the research for *Animals and Their Legal Rights*, she had a full-time job as Librarian at Montclair College. She devoted weekends and evenings to the book, consulting the Law Library at Columbia University, the New York Public Library, and the files of the Animal Welfare Institute. In the course of her work, she made the remarkable discovery that the first anti-cruelty law was American (Massachusetts Bay Colony, 1641). She was well into detailed analysis of the basic state laws when she learned that she had only a short time to live.

Through the generosity of the Moses Foundation, which later contributed to publication costs of the book, it was possible for her to leave her position at the college and devote full time to *Animals and Their Legal Rights* till her illness forced her to cut back to part-time work. She gave the utmost efforts to the end of her strength.

In the acknowledgments she had prepared for the book before her death, she wrote: "My gratitude and thanks go to Madeleine Bemelmans for her understanding help and sympathetic, wise counsel—and to Adele Schoepperle for her cheerful and valuable assistance on the many tedious tasks of research."

In order to finish the book, experts were called upon to write unfinished chapters: the Animal Health Division of the United States Department of Agriculture for the chapter on transportation of livestock; Pearl Twyne, then President of the American Horse Protection Association, for the chapter on horses; Frederick Ulmer, Curator of Mammals at the Philadelphia Zoological Gardens, on importation of wild animals and birds.

Finally, Mrs. Leavitt's own chapters had to be rechecked and brought up to date for the period between her death in 1966 and publication. Lynne Hutchison did much of the reference work and faithfully typed and retyped, proofread, and corrected the manuscript.

For the 1978 edition, the authors revised the chapters they had written, and new contributions were added by Greta Nilsson on birds, Shirley McGreal on primates, and Mary Anderson on turtles.

The 1990 edition includes a chapter on animals and airlines by Fay Brisk, who wrote a history of the animal protective work she was involved in before her untimely death and gave the Animal Welfare Institute permission to publish this chapter in *Animals and Their Legal Rights*.

Valerie Stanley of the Animal Legal Defense Fund updated the chapter on horses and gave other valuable assistance. Shirley McGreal, President of the International Primate Protection League, wrote a new chapter on the continuing struggle against mistreatment of primates. Greta Nilsson's chapter on birds is much more comprehensive in this edition and reflects her extensive study of the commercial trade in birds. Cathy Liss, AWI Research Associate, coordinated the voluminous material on trapping and poisoning. Dr. Barbara Orlans, AWI Scientific Committee member, contributed recent information on humane education.

Frances Walton donated her expertise as proofreader and grammarian for the fourth edition. Diane Halverson and Andrea Weckerle rechecked the anti-

cruelty laws and prepared excerpts from them. Lynne Hutchison bore the brunt for the major part of the massive revisions which had to be made, as well as typing and proofreading the manuscript.

To all who helped make this book possible, the Animal Welfare Institute is grateful; and we cordially invite readers to submit further information which may be included in future editions. We hope to keep up to date with legislation affecting animals through this publication and to make it available either free or at cost price to those who can help ensure good treatment of animals through enforcement of the law.

Christine Stevens

Washington, D. C., 1990

INTRODUCTION TO THE ORIGINAL EDITION

by Emily Stewart Leavitt

Have you ever paused to consider how you and your neighbors regard animals? To one man, animals are mere things to be used in any way that he wishes; to a second man, animals are seen indistinctly and without much interest but are acknowledged to deserve decent treatment; to a third man, animals are fellow mortals with individual natures that can be developed and enjoyed even while being used as helpers or companions.

Time was when the only massive group attitude was that animals are no more than *things*. For instance, in 1782, Soame Jenyns (1704-1787) writes:

The carman drives his horse, and the carpenter his nail by repeated blows; and as long as these produce the desired effect, and they both go, they neither reflect nor care whether either of them have any sense of feeling. The butcher knocks down the stately ox with no more compassion than the blacksmith hammers a horseshoe, and plunges his knife into the throat of the innocent lamb with as little reluctance as the tailor sticks a needle into the collar of a coat . . . there is scarce one who entertains the least idea that justice or gratitude can be due to their merits or their services.

In 1885, Philip Austin argues that animals have no rights:

they are our slaves, not our equals, and for this reason it is well to keep up such practices as hunting and fishing, driving and riding, merely to demonstrate in a practical way man's dominion over the brutes . . . It is found that an advocacy of the rights of brutes is associated with the lowest phases of morality . . .

Happily, however, an article on "The Lower Animals" in the *Catholic Dictionary* by Addis and Arnold, 1884, softens this point of view:

as the lower animals have no duties, since they are destitute of free will . . . so they have no rights . . . The brutes are made for man . . . But a limitation must be introduced here. It is never lawful for a man to take pleasure directly in the pain given to brutes, because in doing so, man degrades and brutalizes his own nature.

J. B. Austin, in 1887, advocates humaneness on the ground that animals, though not reasoning beings, are "sensitive beings"; and that by cultivating the faculty of sympathy and by considering that sensibility to pain is common to both man and animals, we soon perceive that to inflict needless and unjust pain upon animals is to sin against one's own nature, and therefore to commit a crime.

Also, Cardinal Henry E. Manning (1808-1892), in a letter dated July 13, 1891, writes: "We owe ourselves the duty not to be brutal or cruel; and we owe to God the duty of treating all His creatures according to His own perfections of love and mercy." So we see the beginning of justice to animals emerging, not through a concern for animals, but through a consciousness of man's obligation to his own nature.

To take the third step forward, we find that, even as early as 1791, there are those who hold a really humane feeling for animals. George Nicholson (1760-1825), an English printer, expresses concern thus:

treat the animals which is in your power, in such a manner as you would willingly be treated were you such an animal . . . May we learn to recognize and to respect, in other animals, the feelings which vibrate in ourselves.

The Rev. J. G. Wood, in 1874, makes an actual plea for the immortality of animals:

the lower animals share with man the attributes of Reason, Language, Memory, a sense of moral responsibility, Unselfishness, and Love, all of which belong to the Spirit and not to the body.

These and other voices, crying in the wilderness of man's un-concern for creatures other than himself, were sowing the seed for stronger and more forceful advocates who would push through mere philosophical pleading to actual legislation on the behalf of animals.

Legislation is the record, printed and public, which expresses the moral conscience of a people. Laws may be pointed out, with the comment, "Here it is in black and white, voted by the majority; you must abide by it or pay the penalty." Therefore, when, among English-speaking peoples, the voices began to clamor for actual legislation to protect animals, real help was in sight. Jeremy Bentham (1748-1832) was an English barrister whose book, *An Introduction to the Principles of Morals and Legislation*, first published in 1780, is regarded as a classic by law students today. In this book (pages 310-11) within a footnote entitled "Interests of the inferior animals improperly neglected in legislation by the insensibility of the ancient jurists," Bentham argues realistically in defense of animals' rights at the same time he is arguing realistically in defense of human rights:

If [animals] being eaten were all, there is very good reason why we should be suffered to eat such of them as we like to eat: we are the better for it, and they are never the worse. They have none of those long-protracted anticipations of future misery that we have. The death they suffer in our hands commonly is, and always may be, a speedier, and by that means a less painful one, than that which would await them in the inevitable course of nature. If the being killed were all, there is very good reason why we should be suffered to kill such as molest us: we should be the worse for their living, and they are never the worse for being dead. But is there any reason why we should be suffered to torment them? Not any that I can see. Are there any why we should *not* be suffered to torment them? Yes, several . . . The French have already discovered that the blackness of the skin is no reason why a human being should be abandoned without redress to the caprice of a tormentor. (Lewis XIVth's Code Noir.) It may come one day to be recognized that the number of legs, the villosity of the skin, or the termination of the *os sacrum* are reasons equally insufficient for abandoning a sensitive being to the same fate. What else is it that should trace the insuperable line? Is it the faculty of reason, or, perhaps, the faculty of discourse? But a full-grown horse or dog is beyond comparison a more

rational, as well as a more conversible animal than an infant of a day, or a week, or even a month, old. But suppose the case were otherwise, what would it avail? The question is not, Can they *reason*? nor, Can they *talk*? but, Can they *suffer*?

Considering that the year is 1780, this reasoning is astonishingly advanced. There are people today who will not accept this fundamental logic; for example, some scientists, who, against all sense and logic, persuade themselves and others that animals do not feel.

Fortunately, Jeremy Bentham's attitude was echoed and strengthened by his Scottish friend, Lord Thomas Erskine (1750-1823), in a speech before the House of Peers in 1809:

Nothing is more notorious than that it is not only useless, but dangerous, to poor suffering animals, to reprove their oppressors, or to threaten them with punishment. The general answer, with the addition of bitter oaths and increased cruelty is, WHAT IS THAT TO YOU?

If the offender be a servant, he curses you, and asks *if you are his master?* and if he be the master himself, he tells you that the animal is his own . . . Animals are considered as *property only*—To destroy or to abuse them, from malice to the proprietor, or with an intention injurious to his interest in them, is criminal—but *the animals themselves are without protection*—the law regards them not *substantively*—they have no RIGHTS!

Lord Erskine introduced the bill for the prevention of cruelty to animals into the House of Lords on 15 May 1809. The bill was passed by the lords but lost in the commons by 37 to 27, due to the sneers poured upon it by a member named Windham: "What a pretty figure shall we make in the world . . . if in one column of the newspaper we read a story of commitments under the 'Cruelty to Animals Act,' and in another . . . of a 'glorious run, five horses only being in at the death, of fifty started—several having died in the field.' If the horses be within the provision of the statute, the hounds are not, and at all events the 'rights of the fox' are violated with impunity." (What a revelation of the cruelties of the hunt!) Disappointing as the defeat must have been at the time to men of sensitivity, in the light of history their contribution was a sturdy stepping stone to actual legislation.

It fell to the lot of an Irishman, Richard Martin (1754-1834), to succeed in bringing the first English legislation to passage. Martin, representing County Galway in Parliament, was widely known for his love of animals. He was called "Humanity Martin" by his personal friend, King George IV. "Humanity Martin" was not only humane but also practical. He consulted a well-known expert, John Lawrence, to help him on the details of his bill.

John Lawrence (1753-1839), described as a "literary farmer," was an authority on agriculture and the management of domestic animals. From the alliance of these two humanitarians, Martin and Lawrence, came forth the first legislation in England for the prevention of cruelty to animals. It is known as "Martin's Act" (3 George IV Chap. 71) and was passed 22 July 1822. Entitled "An Act to prevent the cruel and improper Treatment of Cattle," it empowered Magistrates to inflict a penalty of 10 shillings to 5 pounds or imprisonment not ex-

ceeding three months on persons convicted of cruel treatment of "Horses, Mares, Geldings, Mules, Asses, Cows, Heifers, Steers, Oxen, Sheep and other Cattle."

Lawrence was a humanitarian who wrote thus in "A Philosophical Treatise on Horses and on the Moral Duties of Man towards the Brute Creation":

Justice, in which are included mercy, or compassion, obviously refers to sense and feeling. Now is the essence of justice divisible? Can there be one kind of justice for men, and another for brutes? Or is feeling in them a different thing to what it is in ourselves? Is not a beast produced by the same rule, and in the same order of generation with ourselves? Is not his body nourished by the same food, hurt by the same injuries; his mind actuated by the same passions and affections which animate the human breast; and does not he, also, at last, mingle his dust with ours, and in like manner surrender up the vital spark to the aggregate, or fountain of intelligence? Is this spark, or soul, to perish because it chanced to belong to a beast? Is it to become annihilate? Tell me, learned philosophers, how that may possibly happen.

Chapter I

THE EVOLUTION OF ANTI-CRUELTY LAWS IN THE UNITED STATES

by *Emily Stewart Leavitt and Diane Halverson*

America has the distinction of being the first country to acknowledge the rights of animals by enacting statutory legislation to protect them from cruel treatment. In 1641 the Puritans of the Massachusetts Bay Colony voted to have printed their first legal code, "The Body of Liberties."¹ There are 100 "liberties" which the Puritans expect "to be respectfully impartiallie and inviolably enjoyed and observed throughout our Jurisdiction for ever." At a time when others considered animals as mere property, to be used or abused at the whim of man, the Table of Contents lists: Liberty 92. Cruelty to animals forbidden. On turning to Liberty 92, we find:

OFF THE BRUTE CREATURE

92. No man shall exercise any Tirranny or Crueltie towards any brute Creature which are usuallie kept for man's use.

93. If any man shall have occasion to leade or drive Cattel from place to place that is far of, so that they be weary, or hungry, or fall sick, or lambe, It shall be lawful to rest or refresh them, for a competent time, in any open place that is not Corne, meadow, or inclosed for some peculiar use.

Thus we have, in addition to the first anti-cruelty law, the first law to protect animals in transit.

The Puritans take special care to proclaim these "liberties" laws:

96. Howsoever these above specified rites, freedoms, Immunities, Authorities and priveledges, both Civill and Ecclesiastical are expressed onely under the name and title of Liberties, and not in the exact form of Laws or Statutes, yet we do with one consent fullie Authorise, and earnestly intreate all that are and shall be in Authoritie to consider them as laws, and not to faile to inflict condigne and proportionable punishments upon every man impartiallie, that shall infringe or violate any of them.

To strengthen further the legality of Liberty 92, we draw on the research of the noted historian, Samuel Eliot Morison. In his book, *Builders of the Bay Colony* (page 232), he says, "Although animals then had no protection in Common Law, 'The Brute Creature' has a section of his own in the Body of Liberties." And, in a footnote, Mr. Morison refers to an "interesting case of condemnation for cruelty to an ox, in Records of Quarterly Courts of Essex County [Massachusetts] III, 305." It seems clear that Liberty 92 not only was an anti-cruelty law but also was used successfully for prosecution.

This law is far ahead of its time—so far ahead that humanitarians throughout the world, not aware of its existence, have been assuming that the British

M.P., Richard Martin, who fought so fiercely for enactment of the first anti-cruelty legislation in England (1822), was the primary author of all the laws that have followed. It seems now that "Humanity Martin" must give up first place to the Puritan minister, Nathaniel Ward, who compiled the *Body of Liberties* of 1641.

Nathaniel Ward (c. 1578-1652) was born in Haverhill, England. He was a graduate of Emmanuel College, Cambridge, studied law and became a barrister. Driven out of England for heresy by Bishop Laud, he came to New England in 1634 and settled in Ipswich, Massachusetts, where he compiled "*The Body of Liberties*," adopted by the General Court of Massachusetts in December 1641. Beginning in 1635, there had been a growing concern among the Deputies of the towns of the Massachusetts Bay Colony for a draft of laws; committees had been appointed time and again, but they all failed to produce results. Finally, in June 1641, the guiding powers enlisted the service of "a learned lawyer" whose legal abilities they felt to be superior—the Rev. Nathaniel Ward, who had already served on some of the committees. In his autobiographical sketch, "*The Simple Cöbler of Aggawam*," Mr. Ward says, "I have read almost all the *Common Law* of England." This and his own experiences were the sources from which he drafted his statute book. He enriched the code with his own practical good sense and his understanding of the communal love of liberty, making "*The Body of Liberties*" in its entirety work far in advance of the time.²

Aside from these Puritan laws, "there was little early specific legislation but it was possible to prosecute 'cruelists' under common law as committing 'nuisances.'" For instance:

A cartman in Philadelphia has been indicted and found guilty of cruelly beating his horse and sentenced to pay a fine of \$30 with costs of prosecution and to give bond for his good behavior for one year.

This information is given by William Shultz in the introduction to his book, *The Humane Movement in the United States, 1910-1922*, page 12. Note that the cartman had "to give bond for his good behavior for one year," in addition to the \$30 and costs. It would seem that some of our modern penalties for cruelty fall far short of the wisdom of this one.

As further evidence that cruel treatment of animals was punishable under Common Law, we have this statement from the *Digest of New York Statutes and Reports*:

Animals III. Treatment—Preservation—Destruction of Animals.

28. Cruelty. That wanton cruelty to an animal—e.g. excessive beating of his horse by a cartman,—is punishable at common law as a misdemeanor. Gen. Sess., 1822, *People v. Stakes*, 1 Wheel. Cr. Cas., 111. And see *Ross' Case*, 3 City H. Rec. 191.³

As far as can be determined, the first anti-cruelty law among the United States was enacted in 1828 by the New York State Legislature. This law reads:

Sec. 26. Every person who shall maliciously kill, maim, or wound any horse, ox, or other cattle, or sheep, belonging to another, or shall maliciously and cruelly beat or torture any such animal, whether belonging to himself or another, shall, upon conviction, be adjudged guilty of a misdemeanor.⁴

Although this law limits the protected animals to owned horses, cattle, or sheep, it does give these animals the right to be protected from their owners' cruel treatment, thus taking them out of the class of mere property and giving them the legal right to be well treated for the first time in an established State of the Union.

Who is responsible for this law? Efforts (searching back to the Colonial Laws of 1664) to trace the origin to an earlier date than 1828 have so far proved fruitless; therefore, we must look to the 1827-28 Revisors of the Statutes for responsibility. The two Revisors are B. F. Butler and John C. Spencer. According to these gentlemen, in their report to the Legislature of the State of New York, dated October 15, 1828, they had been charged with the duty of presenting an entirely new arrangement and organization of the criminal laws. Saying that the Common Law had long ceased to be a satisfactory guide in assigning punishments, they cite the following guides for their work:

(1) The codes of penal law and of procedure in criminal cases, prepared by Mr. Livingston for the state of Louisiana . . . But the different state of society for which our labors are intended, and prevailing sentiments respecting punishments varying essentially from those entertained by the enlightened author of those codes, have prevented the adoption of many provisions suggested by him . . .

(2) Anthony Hammond, Esq., a distinguished jurist of the Inner Temple (in England) where recent and great efforts have been made to simplify their criminal laws. This gentleman transmitted to us his able and voluminous reports and consolidations, prepared under the employment of the government for the British Parliament. They contain complete digests of the British statutes respecting crimes, with copious annotations from the reports. They have been of essential service to us . . . it is but just to remark that they were not so generally applicable to this state, as to relieve us from the labor of newly digesting and arranging so much of the law as relates to crimes and their punishments.⁵

From these explanations, it would seem that credit may be given to Mr. Butler and Mr. Spencer for phrasing the first anti-cruelty state law and for assigning its violation the punishment of a misdemeanor.

The next state to pass anti-cruelty legislation was Massachusetts in 1835.⁶ The wording was similar to that of the New York law, but the punishment was designated "by imprisonment in the county jail, not more than one year, or by fine not exceeding one hundred dollars."

In 1838 Connecticut⁷ and Wisconsin⁸ added an anti-cruelty law to their statutes. Connecticut's penalty was imprisonment not exceeding one month or fine not exceeding twenty-five dollars; Wisconsin set imprisonment at not more than thirty days and fine from five to fifty dollars.

The following chronological outline shows the year in which each state enacted its first anti-cruelty law. Penalties were similar to those already quoted, until Texas⁹ set a fine as up to \$250. Pennsylvania¹⁰ imposed a more severe penalty: a fine up to two hundred dollars, imprisonment up to one year, *or both*, at the discretion of the court; and Idaho set its punishment as "A fine of not more than five hundred dollars, or imprisonment . . . not exceeding six months, *or both*

such fine and imprisonment." Idaho¹¹ made another step forward by introducing and passing a companion law (Sec. 142) to impose a similar penalty on any person "who shall willfully administer any poison to any cattle or domestic animal or maliciously expose any poisonous substance, with the intent that the same shall be taken or swallowed by cattle or domestic animal . . ." So far as is known, this is the first law in the United States to protect domestic animals from poisoning.

UNITED STATES ANTI-CRUELTY LAWS

Chronological Enactment

1641 Massachusetts Bay Colony "The Body of Liberties"			
1828	New York	1871	Montana
1835	Massachusetts	1872	Colorado
1838	Connecticut	1873	Delaware
1838	Wisconsin	1873	Indiana
1842	New Hampshire	1873	Nebraska
1845	Missouri	1875	Georgia
1848	Virginia	1879	Arkansas
1851	Iowa	1879	Louisiana
1851	Minnesota	1880	Mississippi
1852	Kentucky	1880	Ohio
1854	Vermont	1881	North Carolina
1856	Texas	1881	South Carolina
1857	Rhode Island	1883	Alabama
1858	Tennessee	1883	Maine
1859	Kansas	1884	Hawaii
1859	Washington	1887	New Mexico
1860	Pennsylvania	1887	South Dakota
1861	Nevada	1889	Florida
1864	Idaho	1890	Maryland
1864	Oregon	1891	North Dakota
1867	New Jersey	1893	Oklahoma
1868	California	1895	Wyoming
1868	West Virginia	1898	Utah
1869	Illinois	1913	Alaska
1871	District of Columbia	1913	Arizona
1871	Michigan	1921	Virgin Islands

By 1866 when Henry Bergh secured legislative consent for the incorporation of the American Society for the Prevention of Cruelty to Animals, twenty states had enacted anti-cruelty laws; of these states, six were in reality still territories when they passed their law: Wisconsin, Minnesota, Washington, Kansas, Nevada, and Idaho.

In spite of laws to prevent cruelty to animals, Henry Bergh, even with his newly incorporated society, found it difficult to get convictions. His 1957 biographer, A. F. Harlow, in *Henry Bergh, Founder of the ASPCA*, says that although there had been an anti-cruelty law passed in New York State in 1829 [sic], no one could remember that it had ever been used to prosecute; it seemed better to draft a new law than to try to revive an old one. Nevertheless, Henry Bergh's

first law, passed April 19, 1866, is similar to the 1828 law, though an added section aims to protect disabled horses and mules from abandonment.

Statutes at Large of the State of New York passed in the years 1863, 1864, 1865, 1866. Chapter 682. AN ACT better to prevent cruelty to animals. Passed April 19, 1866.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Sec. 1. The twenty-sixth section of title six, chapter first, part four of the Revised Statutes, is hereby amended so as to read as follows:

Sec. 26. Every person who shall by his act or neglect, maliciously kill, maim, wound, injure, torture or cruelly beat any horse, mule, ox, cattle, sheep or other animal belonging to himself or another, shall, upon conviction, be adjudged guilty of a misdemeanor.

Sec. 2. Every owner, driver or possessor of an old, maimed, or diseased horse or mule, turned loose or left disabled in any street, lane or place of any city in this state, who shall allow such horse or mule to lie in any street, lane or public place for more than three hours after knowledge of such disability, shall, on conviction, be adjudged guilty of a misdemeanor.

This 1866 law undoubtedly served the purpose of re-establishing anti-cruelty legislation as a matter of public conscience, demanding respectful attention by judges of prosecutions which Henry Bergh had often found heretofore dismissed facetiously with no conviction.

Sensitive as he was to the many cruelties being inflicted on animals, however, and cognizant of the newly aroused public sentiment, Henry Bergh did not stop with the somewhat meager 1866 legislation. His real masterpiece of legal draftsmanship came in 1867 when "An Act for the more effectual prevention of cruelty to animals" was passed on April 12. This Act has ten sections and has since served as the example for the drafting of many succeeding anti-cruelty laws (forty-one states and the District of Columbia have present laws based on this Act). For this reason it seems worthy of quotation in its entirety here.

STATUTES AT LARGE OF THE STATE OF NEW YORK

Passed in the Years 1867, 1868, 1869, 1870
John W. Edmonds, Ed., Vol. VII, 1870

CHAP. 375

AN ACT for the more effectual prevention of cruelty to animals.

Passed April 12, 1867; three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. If any person shall over-drive, over-load, torture, torment, deprive of necessary sustenance, or unnecessarily or cruelly

beat, or needlessly mutilate or kill, or cause or procure to be over-driven, over-loaded, tortured, tormented or deprived of necessary sustenance, or to be unnecessarily or cruelly beaten, or needlessly mutilated or killed, as aforesaid, any living creature, every such offender shall, for every such offense, be guilty of a misdemeanor.

Section 2. Any person who shall keep or use, or in any way be connected with, or interested in the management of, or shall receive money for the admission of any person to any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock or other creature, and every person who shall encourage, aid or assist therein, or who shall permit or suffer any place to be so kept or used, shall, upon conviction thereof, be adjudged guilty of a misdemeanor.

Section 3. Any person who shall impound, or cause to be impounded in any pound, any creature, shall supply to the same, during such confinement, a sufficient quantity of good and wholesome food and water, and in default thereof, shall upon conviction, be adjudged guilty of a misdemeanor.

Section 4. In case any creature shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which any such creature shall be so confined, and to supply it with necessary food and water so long as it shall remain so confined. Such person shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such creature, and the said creature shall not be exempt from levy and sale upon execution issued upon judgment therefor.

Section 5. If any person shall carry, or cause to be carried, in or upon any vehicle or otherwise, any creature, in a cruel or inhuman manner, he shall be guilty of a misdemeanor; and whenever he shall be taken into custody therefor by any officer, such officer may take charge of such vehicle and its contents, and deposit the same in some safe place of custody; and any necessary expenses which may be incurred for taking charge of and keeping and sustaining the same, shall be a lien thereon, to be paid before the same can be lawfully recovered. Or the said expenses or any part thereof remaining unpaid, may be recovered by the person incurring the same, of the owner of said creature, in any action therefor.

Section 6. Every person who shall hereafter use any dog or dogs for the purpose of drawing or helping to draw any cart, carriage, truck, barrow or other vehicle, in any city or incorporated village, for business purposes, shall be required to take out a license for that purpose, from the mayor or president thereof, respectively, and shall have the number of said license and the residence of the owner distinctly painted thereon; and for each violation of this section shall forfeit and pay a fine of one dollar for the first offense, and a fine of ten dollars for each subsequent offense.

Section 7. If any maimed, sick, infirm or disabled creature shall be abandoned to die, by any person, in any public place, such person shall be guilty of a misdemeanor; and it shall be lawful for any magistrate or captain of police in this state to appoint suitable persons to destroy such creature if unfit for further use.

Section 8. Any agent of the American Society for the Prevention of Cruelty to Animals, upon being designated thereto by the sheriff of any county in this state, may, within such county, make arrest, and bring before any court or magistrate thereof having jurisdiction, offenders found violating the provisions of this act; and all fines imposed and collected in any such county, under the provisions of this act, shall inure to said society, in the aid of the benevolent objects for which it was incorporated.

Section 9. This act shall take effect on the first day of May next. And the said American Society for the Prevention of Cruelty to Animals shall cause the same to be published once each week for three weeks, in four daily papers published in New York City, or in default thereof shall forfeit the right to receive the penalties and fines as provided.

Section 10. Nothing in this act contained shall be construed to prohibit or interfere with any properly conducted scientific experiments or investigations, which experiments shall be performed only under the authority of the faculty of some regularly incorporated medical college or university of the state of New York.

A careful scrutiny of the 1867 law will show the great advance made in establishing protection and legal rights for animals. In Section 1, notice the detailed, specific cruelties, and that they are now applied to "any living creature." Section 2, a new addition, prohibits animal fights and baiting. Sections 3 and 4 protect impounded animals from hunger and thirst. Section 5 aims to stop cruelty in transporting animals. Section 10 shows the early impact of animal experimentation upon the cruelty laws; even in 1867 it is exempt from cruelty charges.

ANALYSIS OF PRESENT ANTI-CRUELTY LAWS

An analysis of the current anti-cruelty laws in the fifty states, the District of Columbia, American Samoa, Guam, the Canal Zone, the Virgin Islands and the Commonwealth of Puerto Rico shows that the public conscience generally agrees that all animals have the right to (1) protection from cruel treatment, such as is described in detail in Section 1 of Henry Bergh's 1867 law; (2) protection from abandonment; (3) protection from poisoning; and (4) the provision of food, water and shelter.

Protection from Cruel Treatment

Nearly half the states, American Samoa, and Guam have laws which stipulate that cruel treatment must have been committed willfully, maliciously, or cruelly. State statutes with qualifiers such as "intentionally," "negligently," "maliciously," or "knowingly" define the mental state of the person charged. Statutes without qualifiers make offenders strictly liable for an offense without

regard to mental state. Please note that terms such as "cruelly" and "unnecessarily" which characterize the circumstances of the offense committed must be distinguished from the qualifiers "intentionally," "negligently," "maliciously," or "knowingly" which describe a culpable mental state.¹² In court it is often difficult to prove willfulness or malice, and so, in practice, the use of such qualifiers can lead to the acquittal of offenders who might justly have been convicted of committing cruelty to animals under the laws of other jurisdictions drafted without qualifiers. Moreover, provisions with qualifiers can be interpreted as a license to inflict any degree of suffering on any number of animals provided that the motives of the person inflicting the pain are not sadistic. It is this interpretation that is applied to scientific research and to scientific demonstrations in schools.

In 22 states and the District of Columbia, experimental animals used in scientific institutions are specifically excluded from the protective coverage of the anti-cruelty laws. These states are: Alaska, California, Delaware, Florida, Georgia, Hawaii, Idaho, Kansas, Louisiana, Maine, Missouri, Nevada, New Jersey, New York, North Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington and Wisconsin. In most of these states, the exemptions are constructed in language similar to Missouri's law in which it is written that the protective provisions of the animal welfare statute "shall not be construed to prevent or interfere with any scientific experiments or investigations" (Section 578.055). In Utah, the statute explicitly permits both painful research and painful animal husbandry practices:

It is a defense to the prosecution under this section that the conduct of the actor towards the animal was an accepted veterinary practice¹³ or directly related to a *bona fide* experimentation for scientific research provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved [Section 76-9-301].

As drafted, exemptions for scientific research in Alaska and Vermont call for the "humane" treatment of animals. The Vermont statute states that nothing within the anti-cruelty law "shall be construed to prohibit or interfere with the use of animals for scientific research by competent research men if done in a humane manner with a minimum of suffering to the animals [Section 13-403]."

Although Pennsylvania's anti-cruelty law does not contain such exemptions, it does permit the issuance of search warrants to the police or humane society agents to enter places where they believe cruelty to animals is being committed, but adds the following prohibition:

Provided, that no search warrant shall be issued under the provisions of this section which shall authorize any policeman, or agent or other person to enter upon to search premises where scientific research is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease. [Section 18-5511, Act of June 3, 1911, as amended.]

Provision of Food, Water and Shelter

Nearly 20 states, the District of Columbia and Guam prohibit both depriving an animal of "necessary sustenance" and failing to provide "food and water" or "food, water and shelter." Several require the provision of "necessary sustenance" without further reference to food, water or shelter. The application of the phrase "necessary sustenance" varies from state to state but minimally refers to the provision of food and water or, in some states, to a *sufficient* amount of wholesome food, or to such additional provisions as shelter, adequate exercise, sanitary living conditions, adequate space for confined animals and necessary veterinary care.

In New York, for example, Section 353 of the anti-cruelty code states in part: "A person who . . . deprives any animal of *necessary sustenance*, food or drink, or neglects or refuses to furnish it *such sustenance* or drink . . . or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a misdemeanor . . ." (emphasis added). In the case of *People v. O'Rourke*, 369 N.Y.S. 2d 335 (1975), motion denied, 83 Misc. 2d 51, 371 N.Y.S. 2d 603, the defendants were charged with violating Section 353 for allowing a limping horse to continue to work without providing it with necessary veterinary care. The court noted the definition of "sustenance" in *Webster's Third New International Dictionary* (1966): "the act of supplying or being supplied with the *necessaries of life*." The court also cited the definition of "torture" or "cruelty": "Every act, omission or *neglect* whereby unjustifiable physical pain, suffering or death is caused or permitted" and determined that failing to provide the horse with necessary medical attention constituted neglect under Section 353.¹⁴ (Italics ours.)

Failure to provide food and water (sustenance) is a violation of law in most states, the District of Columbia, Puerto Rico, the Canal Zone and Guam.

A list of anti-cruelty statutes enabling any private citizen to relieve a neglected animal impounded on the property of another person by entering into the place of confinement to supply the animal with food and water, or by removing the animal to feed and water it, is given in the Appendix.

Approximately half the state statutes require shelter without qualifying phrases, but most states require that failure to provide shelter be proven intentional or cruel. Although anti-cruelty statutes in Hawaii, Mississippi, New Mexico, North Carolina, Oregon, and Tennessee do not specifically require shelter, they prohibit depriving an animal of necessary sustenance. Courts in these states have ruled that necessary sustenance includes shelter (as well as food and water). In Oregon, Hawaii, and Mississippi, the courts have not yet ruled on the issue. Lest one think that protection from the cold is needed only in such states as Alaska, remember also the need for shelter from driving rain and wind, and from the hot, beating sun in such states as Mississippi and Louisiana, where shelter is not specifically called for. Every jurisdiction should require shelter in its anti-cruelty code.

In 1989, Nevada Governor Bob Miller signed a bill into law authorizing the state to seize cruelly treated agricultural animals. The law stemmed from a cruelty case in which cattle were starving to death.

This is the first state law to parallel, in part, a 1988 amendment to the British

Protection of Animals Act authorizing the court to disqualify any person convicted of cruelty to animals from having custody of any animal in the future.

Provision of Exercise, Space, Light, Ventilation and Sanitary Living Conditions

Provisions for adequate exercise, space, light, ventilation and clean living conditions for confined animals are important but infrequent requirements of state anti-cruelty laws. Those statutes that do include these provisions make only brief references to them. Statutes in Florida, Maryland, Minnesota, North Dakota, New York, Ohio, Washington, Wisconsin, and Puerto Rico require fresh air. California, Florida, Kansas, Kentucky, Maryland, Minnesota, North Dakota, Ohio, Washington, Wisconsin, and Puerto Rico codes make reference to exercise or adequate space. Light is required in Washington and Puerto Rico. Maine and Wisconsin statutes require clean living conditions.

Protection from Abandonment

Abandonment of animals is defined in the Colorado code (Section 18-9-201) as "the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care." Most states, the District of Columbia, Guam, Puerto Rico, and the Canal Zone prohibit abandonment. In several states, the prohibition is restricted to *willful, cruel or intentional* abandonment; to abandoning animals to die; to abandoning *disabled* animals or to abandoning *domestic* animals (leaving in question the protection of wild animals in captivity).

Kinds of Animals Protected

With respect to which animals are to be protected from cruel treatment, about half the state laws protect any non-human living creature or "any animal," defining animals as all living creatures except human beings. The rest use the words "animal," "domestic animals," "captive animals," or "warm-blooded creatures."

Protection From Poisoning

A person who intentionally injures or kills an animal belonging to another commits a criminal act. The anti-cruelty laws of half the states specifically prohibit the use of poison to inflict injury or death. Under the Connecticut anti-cruelty code, "any person who . . . unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken by an animal, or causes it to be done . . . shall be fined not more than \$750 or imprisoned not more than one year or both."

Among the states which prohibit administering and/or exposing toxic substances to domestic animals in the anti-cruelty code, variations exist as to which animals are protected: some concern any animal, dogs only, or livestock only, and some distinguish between animals that are the property of the poisoner and those that belong to someone else. Penalties for poisoning or attempting to poison may vary according to the monetary value of the animal, the species of animal, and whether the animal belongs to the poisoner or to another, with the

longest term of imprisonment and highest fine usually imposed when the poison is administered to or exposed to livestock. In Nevada, for example:

... a person who unjustifiably administers any poisonous or noxious drug or substance to a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with intent that it be taken by a horse, mule or domestic cattle whether the horse, mule or domestic cattle are the property of himself or another, shall be punished by imprisonment in the state prison for not less than one year nor more than 10 years, or by a fine of not more than \$10,000 or by both fine and imprisonment. A person who unjustifiably administers any poisonous or noxious drug or substance to any animal other than a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by an animal other than a horse, mule or domestic cattle, whether such animal is the property of himself or another, is guilty of a gross misdemeanor.¹⁵ This section does not prohibit the destruction of noxious animals. [Section 574.150]

In states without such anti-cruelty statutes, poisoning prohibitions may exist under another title of the state law code, or poisoners who injure or kill any animal belonging to another may be charged with committing a crime against property. Within the anti-cruelty code, a poisoner may be prosecuted for injuring, killing or inflicting pain upon an animal. Colorado imposes the highest fine for causing pain, injury or death: a minimum of six months' imprisonment and/or a fine of \$500 to a maximum of twenty-four months' imprisonment and/or a \$5,000 fine. The law states that "a person commits cruelty to animals if, except as authorized by law, he . . . tortures, torments . . . needlessly kills . . . any animal."

Poisoners are hard to catch in the act, but announcement of a substantial reward for information leading to the arrest and conviction of a person trying to poison domestic animals has proved very effective in bringing a quick stop to such activities.¹⁶

Humane Transport of Animals

The anti-cruelty laws of most states, the District of Columbia, and the Commonwealth of Puerto Rico require that transport of animals be conducted in a humane manner. Minnesota's law protects "any live animals" (defining "animal" as "every living creature") and specifies the acts that constitute a cruel manner of transport. Minnesota statute 343.24 states:

Every person who shall carry, or cause to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages in which such animals can both stand and lie down during transportation, and while awaiting slaughter; every person who shall carry, or cause to be carried, upon a vehicle or otherwise, any live animal having feet or legs tied together, or in any other cruel or inhumane manner, and every person or corporation engaged in transporting livestock who shall detain the same in cars or compartments for more than 28 consecutive hours without unloading the same in a humane manner into properly equipped pens for rest, water, and feeding for a period of at least five consecutive hours, unless requested

to do so as hereinafter provided, or unless prevented by storm or unavoidable causes which cannot be anticipated or avoided by the exercise of due diligence and foresight, or shall permit the same to be crowded together without sufficient space to stand, or so as to overlie, crush, wound, or kill each other, shall be guilty of a misdemeanor; provided, that upon the written request of the owner or person in custody of that particular shipment, which written request shall be separate and apart from any printed bill of lading, or other railroad form, the time and confinement may be extended to 36 consecutive hours.

The majority of state laws requiring humane transport are much briefer than Minnesota's, however, and are often written in the manner of the following Mississippi statute: "If any person shall carry, or cause to be carried by hand or upon any vehicle or other conveyance, any creature in a cruel or inhumane manner, he shall be guilty of a misdemeanor" [Section 97-41-5].

California, Idaho, Washington and West Virginia protect "domestic animals" from cruel transport. The District of Columbia, the Commonwealth of Puerto Rico and the 30 remaining states with transportation provisions protect, variously, "any creature" or "any animal" ("an animal")—with individual definitions of "animal."

Anti-cruelty statutes prohibiting inhumane transport are given in the Appendix, along with the penalties for violating these statutes.

The Value of Specific Language

Cruelty, as defined in the anti-cruelty codes, usually consists of "every act, omission or neglect"¹⁷ whereby unjustifiable physical pain, suffering or death is caused or permitted." Therefore, when a law does not specifically require shelter, a judge may determine that failure to provide it is "an omission" or "neglect" causing "unjustifiable physical pain" and, therefore, an act of cruelty punishable by law. It is far better, however, if illegal acts are specifically prohibited by statute. This need was demonstrated in a 1976 opinion by Kansas Attorney General Curt Schneider on whether abandonment constituted a violation of the state's anti-cruelty code. The statute then read as follows: "Cruelty to animals is subjecting any animal to cruel mistreatment or having custody of any animal and subjecting such animal to cruel neglect."

The Attorney General noted the definition of cruelty—as quoted above—in jurisdictions outside of Kansas (the Kansas code gave no definition) and determined that "the mere act of abandoning does not per se cause unjustifiable physical pain, suffering or death and thus does not constitute cruel mistreatment." He concluded that the portion of the Kansas law which stated "cruelty to animals is . . . having custody of any animal and subjecting such animal to cruel neglect" does not apply to abandonment since the law refers to those persons "having custody" of an animal and "an abandoned animal would not be in custody of the original owner."

Fortunately, in 1977 Kansas enacted stronger legislation with more specific prohibitions and requirements. However, very generalized laws remain in other jurisdictions, notably in Arkansas, Delaware, Georgia, Louisiana, American Samoa and the Virgin Islands. In Georgia, for example, the portion of the law prohibiting acts of cruelty, enacted in 1968, now reads in its entirety: "A person

is guilty of a misdemeanor when his act, omission, or neglect causes unjustifiable physical pain, suffering, or death to any living animal."

Clearly, humane citizens concerned about the welfare of animals should work to: (1) preserve strong laws; (2) promote better state and federal legislation; (3) be alert to proposed changes in present laws; (4) support competent humane officers; (5) enlarge the number of good and efficient animal protective societies; (6) report all cases of cruelty to those in authority, including the local police or sheriff, state police or state veterinarian; (7) plan practical ways to monitor the treatment of animals in commerce; and (8) promote humane education.

Following are important provisions from the anti-cruelty laws of the 50 states and the District of Columbia:

ALABAMA

13A-11-14. Cruelty to animals.

(a) A person commits the crime of cruelty to animals if, except as otherwise authorized by law, he intentionally or recklessly:

- (1) Subjects any animal to cruel mistreatment; or
- (2) Subjects any animal in his custody to cruel neglect; or
- (3) Kills or injures without good cause any animal belonging to another.

[Penalty: Up to 6 months' imprisonment and/or up to \$1,000 fine (§13-A-5-7, 13-A-5-12).]

ALASKA

11.61.140. Cruelty to animals.

(a) A person commits the crime of cruelty to animals if the person

(1) intentionally inflicts severe and prolonged physical pain or suffering on an animal;

(2) recklessly neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe pain or suffering to the animal . . .

(c) In this section, 'animal' means a vertebrate living creature not human being, but does not include fish.

[Penalty: Up to \$5,000 fine and/or up to 1 year's imprisonment (§12.55.035, 12.55.135).]

ARIZONA

13-2910. Cruelty to animals or poultry; classification

A. A person commits cruelty to animals if, except as otherwise authorized by law, such person recklessly:

1. Subjects any animals or poultry under human custody or control to cruel mistreatment; or
2. Subjects any animal or poultry under his custody or control to cruel neglect or abandonment; or

3. Kills any animal or poultry under the custody or control of another without either legal privilege or consent of the owner . . .

C. Cruelty to animals or poultry is a class 2 misdemeanor.

[Penalty: Up to 4 months' imprisonment and/or up to \$750 fine (§13-707, 13-802).]

ARKANSAS

5-62-101. Cruelty to animals.

(a) A person commits the offense of cruelty to animals if, except as authorized by law, he knowingly:

- (1) Abandons any animal;
- (2) Subjects any animal to cruel mistreatment;
- (3) Subjects any animal in his custody to cruel neglect; or
- (4) Kills or injures any animal belonging to another without legal privilege or consent of the owner.

(b) Cruelty to animals is a Class A misdemeanor.

5-62-110. Definitions.

(a) As used in this act, unless the context otherwise requires:

- (1) 'Animal' or 'dumb animal' includes every living creature;
- (2) 'Torture,' 'torment,' or 'cruelty' include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted . . .

[Penalty: Up to \$1,000 fine and/or up to 1 year's imprisonment (§5-4-201, 5-4-401).]

CALIFORNIA

597. Cruelty to animals.

(a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of an offense punishable by imprisonment in the state prison, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment, or, alternatively, by imprisonment in the county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment.

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for every such offense, guilty of a crime punishable as a

misdemeanor or as a felony or alternatively punishable as a misdemeanor or a felony and by a fine of not more than twenty thousand dollars (\$20,000) . . .

599.b. . . 'animal' includes every dumb creature; the words 'torment,' 'torture,' and 'cruelty' include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted . . .

[In 1989, California prohibited disciplining elephants by beating that may break the skin, electrical shocking, starving, and the use of martingales and block and tackle for their restraint.]

COLORADO

18-9-201. Definitions. As used in section 18-9-202, unless the context otherwise requires:

(1) 'Abandon' includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

(2) 'Animal' means any living dumb creature.

(3) 'Mistreatment' includes every act or omission which causes, or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering.

(4) 'Neglect' includes failure to provide food, water, protection from the elements, opportunity for exercise, or other care normal, usual, and proper for an animal's health and well-being.

18-9-202. Cruelty to animals—neglect of animals—offenses.

(1) A person commits cruelty to animals if, except as authorized by law, he knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries in or upon any vehicles in a cruel manner, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge and custody of any animal, fails to provide it with proper food, drink, or protection from the weather, or abandons it.

(2) (a) Cruelty to animals is a class 1 misdemeanor.

(b) In the case of any person incurring a second or subsequent conviction under the provisions of paragraph (a) of this subsection (2), a sentence of imprisonment within the minimum and maximum terms shall be mandatory and shall not be subject to suspension, nor shall such person be eligible for probation or parole for any part of such period . . .

35-42-112. Cruelty to animals—penalty.

Every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates or kills, or carries in or upon any vehicles or otherwise in a cruel or inhumane manner any animal or causes or procures it to be done or who, having charge and custody of any animal, unnecessarily fails to provide it with proper food, drink, or protection from the weather or cruelly abandons it commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

[Penalty: Minimum sentence is six months' imprisonment or \$500 fine, or both; maximum sentence is 24 months' imprisonment or \$5,000 fine, or both (§18-1-106).]

CONNECTICUT**53-247. Cruelty to animals.**

Any person who overdrives, drives when overloaded, overworks, tortures, deprives of necessary sustenance, mutilates or cruelly beats or kills or unjustifiably injures any animal, or who, having impounded or confined any animal, fails to give such animal proper care or neglects to cage or restrain any such animal from doing injury to itself or to another animal or fails to supply any such animal with wholesome air, food and water, or unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken by an animal, or causes it to be done, or, having charge or custody of any animal, inflicts cruelty upon it or fails to provide it with proper food, drink or protection from the weather or abandons it or carries it or causes it to be carried in a cruel manner, or sets on foot, instigates, promotes or carries on or performs any act as assistant, umpire or principal in, or is a witness of, or in any way aids in or engages in the furtherance of, any fight between cocks or other birds, dogs or other animals, premeditated by any person owning, or having custody of, such birds or animals, or fights with or baits, harasses or worries any animal for the purpose of making it perform for amusement, diversion or exhibition, shall be fined not more than seven hundred and fifty dollars or imprisoned not more than one year or both.

DELAWARE**1325. Cruelty to animals; class A misdemeanor.**

(a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:

(1) 'Cruel' includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(2) 'Cruel mistreatment' includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(3) 'Cruel neglect' includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian.

(4) 'Cruelty to animals' includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; failure to feed properly or give proper shelter or veterinary care to an animal.

(5) 'Person' includes any individual, partnership, corporation or association living and/or doing business in the State.

(6) 'Abandonment' includes completely forsaking or deserting an animal originally under one's custody without making reasonable arrangements for custody of that animal to be assumed by another person.

(7) 'Custody' includes the responsibility for the welfare of an animal subject to one's care and control whether he owns it or not.

(8) 'Proper feed' includes providing each animal with daily food and

water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(9) 'Proper shelter' includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(10) 'Proper veterinary care' includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(11) 'Animal' shall not include fish, crustacea or mollusca.

(b) A person is guilty of cruelty to animals when he intentionally or recklessly:

(1) Subjects any animal to cruel mistreatment; or

(2) Subjects any animal in his custody to cruel neglect; or

(3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or

(4) Cruelly or unnecessarily kills or injures any animal whether belonging to himself or another. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal's suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal.

[Penalty: Class A misdemeanor: Up to \$1,000 fine and/or up to 2 years' imprisonment (§11-4206, 11-4207).]

DISTRICT OF COLUMBIA

22-801. Definitions and penalty:

Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates, or cruelly kills, or causes or procures to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated, or cruelly killed any animal, and whoever, having the charge or custody of any animal, either as owner or otherwise, inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, shelter, or protection from the weather, shall for every such offense be punished by imprisonment in jail not exceeding one year, or by fine not exceeding two hundred and fifty dollars, or by both such fine and imprisonment.

22-802. Other cruelties to animals:

Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works the same when unfit for labor, or cruelly abandons the same, or who carries the same, or causes the same to be carried, in or upon any vehicle, or otherwise, in an unnecessarily cruel or inhumane manner, or knowingly and wilfully authorizes or permits the same to be subjected to unnecessary torture, suffering, or cruelty of any kind shall be punished for every such offense in the manner provided in Section 22-801.

22-807. Impounded animals to be supplied with food and water:

Any person who shall impound, or cause to be impounded in any pound,

any creature, shall supply the same, during such confinement, with a sufficient quantity of good and wholesome food and water; and in default thereof shall, upon conviction, be punished for every such offense in the same manner provided in section 22-801.

22-812. Abandonment of maimed or diseased animals . . .

A person being the owner or possessor or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons such animal, or leaves it to lie in the street or road, or public place, more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor punishable by a fine of not less than ten dollars nor more than two hundred and fifty dollars, or by imprisonment in jail not more than one year, or both. Any agent or officer of the Washington Humane Society may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of two reputable citizens called by him to view the same in his presence, to be glandered, injured, or diseased past recovery for any useful purpose. When any person arrested is, at the time of such arrest, in charge of any animal, or of any vehicle drawn by any animal, or containing any animal, any agent of said society may take charge of such animal and such vehicle and its contents and deposit the same in a place of safe custody or deliver the same into the possession of the police authorities, who shall assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon . . .

22-813. Definitions:

In section 22-801 to 22-809, inclusive, and section 22-811, the word 'animals' or 'animal' shall be held to include all living and sentient creatures (human beings excepted) . . .

FLORIDA

828.12. Cruelty to Animals

Whoever unnecessarily overloads, overdrives, tortures, torments, deprives of necessary sustenance or shelter, or unnecessarily or cruelly beats, mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhuman manner, is guilty of a misdemeanor of the first degree, punishable as provided in §775.082 or by a fine of not more than \$5,000, or both.

[Penalty: Imprisonment not exceeding 1 year (§775.082).]

GEORGIA

16-12-4. Cruelty to animals.

(a) A person is guilty of a misdemeanor when his act, omission, or neglect causes unjustifiable physical pain, suffering, or death to any living animal.

(b) This Code section does not apply to the killing of animals raised for the purpose of providing food nor does it apply to any person who hunts wild animals in compliance with the game and fish laws of this state. The killing or injuring of an animal for humane purposes or in the furtherance of medical or scientific research is justifiable.

[Penalty: Up to \$1,000 fine and/or up to 12 months' imprisonment (§17-10-3).]

HAWAII

711-1100. Definitions of terms in this chapter . . .

(5) 'Animal' includes every living creature;

(6) 'Cruelty,' 'torture' or 'torment' includes every act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted.

711-1109. Cruelty to animals.

(1) A person commits the offense of cruelty to animals if he knowingly or recklessly:

(a) Overdrives, overloads, tortures, torments, deprives of necessary sustenance, or cruelly beats or needlessly mutilates or kills, or causes or procures to be overdriven, overloaded, tortured, tormented or deprived of necessary sustenance, or to be cruelly beaten, or needlessly mutilated or killed, any living creature;

(b) Keeps or uses; or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock or other creature, and every person who encourages, aids or assists therein, or who permits or suffers any place to be so kept or used;

(c) Carries or causes to be carried, in or upon any vehicle or other conveyance, any creature in a cruel or inhumane manner;

(d) Sets on foot, or instigates in or does any act towards the furtherance of any act of cruelty to animals.

(2) Subsections (1)(a), (c), (d) and the following subsection (3) are not applicable to accepted veterinary practices and to activities carried on for scientific research governed by standards of accepted educational or medical practices.

(3) Whenever any domestic animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed.

(4) Cruelty to animals is a misdemeanor.

[Penalty: Up to \$1,000 fine and/or up to 1 year's imprisonment (§37-706-640, 37-706-663).]

IDAHO

18-2102. Killing and otherwise mistreating animals.

(1) Every person who maliciously kills, maims, or wounds an animal, the property of another, or who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink or shelter, or to be cruelly beaten, mutilated or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering or inflicts any unnecessary cruelty upon the same, or in any manner abuses any animal, or fails to provide the same with proper food, drink, shelter or protection from the weather, or who cruelly drives, rides, or otherwise uses the same when unfit for labor, is, for every such offense, guilty of a misdemeanor.

(2) Any person convicted for violation of this section shall be punished by a jail sentence of not more than six (6) months or by a fine of not more than one thousand dollars (\$1,000), or by both such fine and imprisonment.

18-2108. Impounding without food or water.

Any person who impounds, or causes to be impounded in any pound, any domestic animal, must supply the same during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof, is guilty of a misdemeanor. In case any domestic animal is at any time impounded as aforesaid and continues to be without necessary food and water for more than twelve (12) hours, it is lawful for any person, from time to time, as may be deemed necessary, to enter into and upon any pound in which such animal is confined, and supply it with necessary food and water so long as it remains so confined. Such person is not liable to any action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such animal, and such animal is not exempt from levy and sale upon execution issued upon a judgment therefor . . .

18-2109. Permitting animals to go without care—Abandoned animals to be killed.

Every owner, driver or possessor of any animal, who shall permit the same to be in any building, inclosure, lane, street, square or lot of any city, county or precinct, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, or officer of any incorporated association qualified as provided by law, to take possession of the animal so abandoned or neglected, and care for the same until it is redeemed by the owner or claimant, and the cost of caring for such animal shall be a lien on the same until the charges are paid. Every sick, disabled, infirm, or crippled animal which shall be abandoned in any city, county or precinct, may if after due search no owner can be found therefor, be killed by such officer; and it shall be the duty of all peace officers, or by an officer of said incorporated association, to cause the same to be killed on information of such abandonment. Such officer may likewise take charge of any animal that by reason of lameness, sickness, feebleness or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if such animal is not then in custody of its owner, such officer shall give notice thereof to such owner, if known, and may provide suitable care for such animal until it is deemed to be in a suitable condition to be delivered to such owner, and any necessary expenses which may be incurred for taking care of and keeping the same shall be a lien thereon, to be paid before the same can be lawfully recovered.

18-2112. Terms defined.

In this chapter the word 'animal' includes every dumb creature; the words 'torment,' 'torture' and 'cruelty' include every act, omission or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted . . .

ILLINOIS

8-703.01. Cruel treatment.

§3.01. No person or owner may beat, cruelly treat, torment, starve, overwork or otherwise abuse any animal. No owner may abandon any animal where it may become a public charge or may suffer injury, hunger or exposure . . .

[Penalties: First offense, Class C misdemeanor, up to 30 days' imprisonment and/or a fine of up to \$500; second offense, Class B misdemeanor, up to 6 months' imprisonment and/or a fine of up to \$500; third or subsequent offense, Class A misdemeanor, up to one year's imprisonment and/or a fine of up to \$1,000 (§1005-8-3,1005-9-1).]

INDIANA

35-46-3-3. 'Animal' defined.

As used in this chapter, 'animal' does not include a human being . . .

35-46-3-7. Abandonment or neglect of vertebrate animal. A person having a vertebrate animal in the person's custody who recklessly, knowingly, or intentionally abandons or neglects the animal commits cruelty to an animal, a Class B misdemeanor.

35-46-3-12. Torturing or killing vertebrate animal.

(a) A person who knowingly or intentionally:

(1) Tortures, beats, or mutilates a vertebrate animal resulting in serious injury or death to the animal; or

(2) Kills a vertebrate animal without the authority of the owner of the animal; commits cruelty to an animal, a Class A misdemeanor.

(b) It is a defense that the accused person reasonably believes the conduct was necessary to:

(1) Prevent injury to the accused person or another person;

(2) Protect the property of the accused person from destruction or substantial damage; or

(3) Prevent a seriously injured vertebrate animal from prolonged suffering.

[Penalty: Class A misdemeanor: Up to 1 year's imprisonment in addition to a fine of up to \$5,000 (§35-50-3-2); Class B misdemeanor: Up to 180 days' imprisonment in addition to a fine of up to \$1,000 (§35-50-3-3).]

IOWA

717.2. Cruelty to animals.

A person who impounds or confines, in any place, a domestic animal or fowl, or an animal or fowl subject to section 109.60, or dog or cat, and fails to supply the animal during confinement with a sufficient quantity of food, and water, or who fails to provide a dog or cat with adequate shelter, or who tortures, torments, deprives of necessary sustenance, mutilates, overdrives, overloads, drives when overloaded, beats, or kills an animal by any means which cause unjustified pain, distress, or suffering, whether intentionally or negligently, commits the offense of cruelty to animals.

A person who commits the offense of cruelty to animals is guilty of a simple misdemeanor. A person who intentionally commits the offense of cruelty to animals which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

717.4. Abandonment of cats and dogs—penalty.

A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog

to an animal shelter or pound as defined in section 162.2. A person who violates this section is guilty of a simple misdemeanor.

[Penalties: Serious misdemeanor, imprisonment up to one year and/or a fine not to exceed \$1,000; simple misdemeanor, imprisonment up to 30 days or a fine not to exceed \$100 (§903.1).]

KANSAS

21-4310. Cruelty to Animals

(1) Cruelty to animals is:

- (a) intentionally killing, injuring, maiming, torturing or mutilating any animal;
 - (b) abandoning or leaving any animal in any place without making provisions for its proper care; or
 - (c) having physical custody of any animal and failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal . . .
- (3) Cruelty to animals is a class B misdemeanor.

21-4313. Animals, Definitions . . .

(1) 'Animal' means every living vertebrate except a human being . . .

[Penalty: Up to 6 months' imprisonment and/or up to \$1,000 fine (§21:4502, 21-4503).]

KENTUCKY

525.130 Cruelty to animals in the second degree.

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

- (a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit, (including, but not limited to being a spectator or vendor at an event where a four legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing, tormenting, failing to provide adequate food, drink, space or health care, or by any other means; or
- (b) Subjects any animal in his custody to cruel neglect; or
- (c) Kills any animal.

(2) Nothing in this section shall apply to the killing of animals:

- (a) Pursuant to a license to hunt, fish or trap;
- (b) Incident to the processing as food or for other commercial purposes;
- (c) For humane purposes;
- (d) For any other purpose authorized by law.

(3) Cruelty to animals in the second degree is a Class A misdemeanor.

[Penalty: A fine of up to \$500 and/or imprisonment up to 12 months (§534.040, 534.090).]

LOUISIANA

14:102. Definitions; cruelty to animals . . .

(1) 'Cruel' means every act or failure to act whereby unjustifiable physical pain or suffering is caused or permitted.

(2) 'Abandons' means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance, and shelter.

(3) 'Proper food' means providing each animal with daily food of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.

(4) 'Proper water' means providing each animal with daily water of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.

(5) 'Proper shelter' means providing each animal with adequate shelter from the elements as required to prevent unnecessary or unjustifiable suffering by the animal.

(6) 'Proper veterinary care' means providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

14:102.1. Cruelty to animals.

A. Any person who intentionally or with criminal negligence commits any of the following shall be guilty of cruelty to animals:

(1) Overdrives, overloads, drives when overloaded, or overworks a living animal.

(2) Tortures, torments, cruelly beats or unjustifiably injures, maims, mutilates, or kills any living animal, whether belonging to himself or another.

(3) Having charge, custody, or possession of any animal, either as owner or otherwise, unjustifiably fails to provide it with proper food, proper drink, proper shelter, or proper veterinary care.

(4) Abandons any animal.

(5) Impounds or confines or causes to be impounded or confined in a pound or other place, a living animal and fails to supply it during such confinement with proper food, proper drink, and proper shelter.

(6) Carries, or causes to be carried, a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner.

(7) Unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken or swallowed by any domestic animal.

(8) Kills or injures any animal belonging to another person without legal privilege or consent of the owner.

(9) Mistreats any living animal by any act or omission whereby unnecessary or unjustifiable physical pain, suffering, or death is caused to or permitted upon the animal.

(10) Causes or procures to be done by any person any act enumerated in this Section.

B. Whoever commits the crime of cruelty to animals shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both . . .

14:102.4. Confined animals; necessary food and water.

When a living animal is impounded or confined, and continues without necessary food and water for more than twenty-four consecutive hours, any law enforcement officer may, as often as is necessary, enter any place in which the animal is impounded or confined and supply it with necessary food and water so long as it shall remain impounded or confined.

MAINE

7:3907. Definitions.

As used in this Part, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings . . .

2. Animal. 'Animal' means every living, sentient creature not a human being . . .

26. Torment, torture and cruelty. 'Torment, torture and cruelty' means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted . . .

29. Well cared for. 'Well cared for' means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal . . .

7:4011. Cruelty to Animals.

1. Cruelty to animals. A person is cruel to animals if he:

A. Kills any animal belonging to another person without legal privilege or the consent of the owner, or kills or attempts to kill any animal with the owner's consent, by means which will cause undue suffering. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;

B. Injures, overworks, tortures, torments, abandons, gives poison to, cruelly beats or mutilates any animal or exposes a poison with the intent that it be taken by an animal;

C. Deprives any animal which he owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions; or

D. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of Maine during the months of December, January, February or March without providing necessary sustenance and proper shelter . . .

7:4013. Necessary sustenance.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

1. Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.

2. Water. If potable water is not accessible to the animal at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

7:4014. Necessary medical attention.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof.

7:4015. Proper shelter, protection from the weather and humanely clean conditions.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section. In the case of farm

animals, nothing in this section may be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practice in the particular county where the animal or shelter is located. For purposes of this section, horses shall not be considered farm animals.

1. Indoor standards. Minimum indoor standards of shelter shall be as follows.

A. The ambient temperature shall be compatible with the health of the animal.

B. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

2. Outdoor standards. Minimum outdoor standards of shelter shall be as follows.

A. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, 'caged' does not include farm fencing used to confine farm animals.

B. Shelter from inclement weather shall be as follows.

(1) An artificial shelter with a minimum of 3 sides and a waterproof roof appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size with a floor above ground and waterproof roof shall be provided to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 30 minutes.

C. No animal may be confined in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

3. Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include the following.

A. The housing facilities shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

B. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.

4. Humanely clean conditions. Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleanings to remove excretions and other waste materials, dirt and trash to minimize health hazards.

7:4016. Violation.

Any person who violates this chapter commits a civil violation for which a forfeiture of \$500 for each offense may be adjudged and such other relief as may be necessary to restore the animal to good health or to ameliorate the effects of cruelty and to ensure that the animal is well cared for.

MARYLAND**27:59. Cruelty to animals a misdemeanor.**

Any person who (1) overdrives, overloads, deprives of necessary sustenance, tortures, torments, cruelly beats, mutilates or cruelly kills; or (2) causes, procures or authorizes these acts; or (3) having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary suffering or pain upon the animal, or unnecessarily fails to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter or protection from the weather; or (4) uses or permits to be used any bird, fowl, or cock for the purpose of fighting with any other animal, which is commonly known as cockfighting, is guilty of a misdemeanor punishable by a fine not exceeding \$1,000 or by imprisonment not to exceed 90 days, or both . . .

27:60. Abandoning domestic animal.

Any person, partnership or corporation being the owner, possessor, or custodian of a dog, cat, or other domestic animal, who abandons such animal or drops or leaves such animal on a street, road, highway, or in a public place or on private property, with intent to abandon it, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$100.00 . . .

27:62. Definitions.

The words 'torture,' 'torment,' and 'cruelty' mean every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted, and the word 'animal' means every living creature except man.

MASSACHUSETTS**272:77. Cruelty to animals.**

Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and whoever uses in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait a live animal, except an animal if used as lure or bait in fishing; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

In addition to any other penalty provided by law, upon conviction for any violation of this section . . . the defendant may, after an appropriate hearing to determine the defendant's fitness for continued custody of the abused animal,

be ordered to surrender or forfeit to the custody of any society, incorporated under the laws of the commonwealth for the prevention of cruelty to animals or for the care and protection of homeless or suffering animals, the animal whose treatment was the basis of such conviction.

MICHIGAN

752.21. Cruelty to animals; penalty . . .

Sec. 1. Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates, or cruelly kills, or causes or procures to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated, or cruelly killed, any animal, and whoever having the charge or custody of any animal, either as owner or otherwise, inflicts unnecessary cruelty upon the same, or wilfully fails to provide the same with proper food, drink, shelter, or protection from the weather, is guilty of a misdemeanor and shall be imprisoned for not more than 3 months, or fined not more than \$500.00, or by both . . .

MINNESOTA

343.20. Definitions . . .

Subd. 2. Animal. 'Animal' means every living creature except members of the human race.

Subd. 3. Torture; cruelty. 'Torture' or 'cruelty' means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death . . .

343.21. Overworking or mistreating animals; penalty.

Subdivision 1. Torture. No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.

Subd. 2. Nourishment; shelter. No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.

Subd. 3. Enclosure. No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.

Subd. 4. Low feed. No person shall feed any cow on food which produces impure or unwholesome milk.

Subd. 5. Abandonment. No person shall abandon any animal.

Subd. 6. Temporary abandonment. No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal's condition.

Subd. 7. Cruelty. No person shall wilfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.

Subd. 8. Caging. No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal.

The provisions of this subdivision do not apply to the Minnesota state agricultural society, the Minnesota state fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97A.041.

Subd. 9. Penalty. A person who fails to comply with any provision of this section is guilty of a misdemeanor.

[Penalty: Up to 90 days' imprisonment and/or up to \$700 fine (§609.03).]

MISSISSIPPI

97-41-1. Living creatures not to be cruelly treated.

If any person shall override, overdrive, overload, torture, torment, unjustifiably injure, deprive of necessary sustenance, food, or drink; or cruelly beat or needlessly mutilate; or cause or procure to be overridden, overdriven, overloaded, tortured, unjustifiably injured, tormented, or deprived of necessary sustenance, food or drink; or to be cruelly beaten or needlessly mutilated or killed, any living creature, every such offender shall, for every offense, be guilty of a misdemeanor.

97-41-5. Carrying creature in a cruel manner.

If any person shall carry, or cause to be carried by hand or in or upon any vehicle or other conveyance, any creature in a cruel or inhuman manner, he shall be guilty of a misdemeanor.

97-41-7. Confining creatures without food or water.

If any person shall confine, or cause to be confined, in any stable, lot, or other place, any living creature, without supplying the same during such confinement with a sufficient quantity of good and wholesome food and water, he shall be guilty of a misdemeanor.

97-41-9. Failure of owner or custodian to provide sustenance.

If any person be the owner or have the custody of any living creature and unjustifiably neglect or refuse to furnish it necessary sustenance, food, or drink, he shall be guilty of a misdemeanor.

[Penalty: A fine of not less than \$10 nor more than \$100 and/or imprisonment in the county jail not less than 10 days nor more than 100 days (§97-41-13).]

MISSOURI

578.012. Animal abuse.

1. A person is guilty of animal abuse when a person:

(1) Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of sections 578.005 to 578.023;

(2) Purposely, intentionally or recklessly causes injury, suffering, or pain to an animal;

(3) Abandons an animal in any place without making provisions for its adequate care;

(4) Overworks or overloads an animal, or drives or works an animal

unfit to work; or

(5) Having ownership or custody of an animal willfully fails to provide adequate care or adequate control.

2. Animal abuse is a class A misdemeanor.

[Penalty: Up to 1 year's imprisonment and/or a fine of up to \$1,000 (\$558.011, 560.016).]

MONTANA

45-8-211. Cruelty to animals.

(1) A person commits the offense of cruelty to animals if without justification he knowingly or negligently subjects an animal to mistreatment or neglect by:

(a) overworking, beating, tormenting, injuring, or killing any animal;

(b) carrying any animal in a cruel manner;

(c) failing to provide an animal in his custody with proper food, drink, or shelter;

(d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or

(e) promoting, sponsoring, conducting, or participating in a horse race of more than 2 miles.

(2) A person convicted of the offense of cruelty to animals shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. If such person is the owner, he may be required to forfeit to the county in which he is convicted any animal affected. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

(3) In addition to the sentence provided in subsection (2), the court may require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected.

NEBRASKA

28-1001. Animal, cruel mistreatment, cruel neglect, and abandon; defined. .As used in section 28-1002, unless the context otherwise requires:

(1) Animal shall mean a domesticated living creature and a wild living creature previously captured. Animal does not include an uncaptured wild creature or a wild creature whose capture was accomplished by conduct at issue under section 28-1002;

(2) Cruel mistreatment shall mean every act or omission which causes, or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering;

(3) Cruel neglect shall mean failure to provide food, water, protection from the elements, opportunity to exercise, or other care normal, usual, and proper for an animal's health and well-being; and

(4) Abandon shall mean the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

28-1002. Cruelty to animals; penalty; authorized or permitted conduct.

(1) A person commits cruelty to animals if, except as otherwise authorized by law, he intentionally or recklessly:

- (a) Subjects any animal to cruel mistreatment; or
- (b) Subjects any animal in his custody to cruel neglect; or
- (c) Abandons any animal; or
- (d) Kills or injures any animal belonging to another.

(2) Cruelty to animals is a Class II misdemeanor . . .

[Penalty: Maximum 6 months' imprisonment or \$1,000 fine or both (§28-106).]

NEVADA

574.050. Definitions . . .

As used in NRS 574.050 to 574.200, inclusive:

1. 'Animal' does not include the human race, but includes every other living creature.

2. 'Torture' or 'cruelty' includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

574.100. Overdriving, torturing, injuring or abandoning animals; failure to provide proper sustenance; penalty.

A person who:

1. Overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether belonging to himself or to another; .

2. Deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink;

3. Causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink;

4. Willfully sets on foot, instigates, engages in, or in any way furthers an act of cruelty to any animal, or any act tending to produce such cruelty; or

5. Abandons an animal in circumstances other than those prohibited in NRS 574.110, is guilty of a misdemeanor.

574.110. Abandonment of disabled animal unlawful; penalty.

1. A person being the owner or possessor, or having charge or custody, of a maimed, diseased, disabled or infirm animal, who abandons such animal or leaves it to die in a public street, road or public place, or who allows it to lie in a public street, road or public place more than 3 hours after he receives notice that it is left disabled, is guilty of a misdemeanor . . .

574.120. Failure to provide proper food and water to impounded animal; penalty.

1. A person who, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water is guilty of a misdemeanor . . .

[Penalty: Up to 6 months' imprisonment and/or a fine of up to \$1,000, or both (§193.150).]

NEW HAMPSHIRE

644:8. Cruelty to animals.

I. In this section, 'cruelty' shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, 'animal' means a domestic animal, a household pet or a wild animal in captivity.

III. A person is guilty of a misdemeanor if he:

(a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;

(b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;

(c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;

(d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;

(e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter; or

(f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

IV. In addition to being guilty of a misdemeanor as provided in paragraph III, any person charged with cruelty to animals may have his animal confiscated by the arresting officer and, upon said person's conviction of cruelty to animals, the court may dispose of said animal in any manner it decides. The costs, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal, upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted . . .

[Penalty: Up to 1 year's imprisonment and/or a fine of up to \$1,000 (§651:2).]

NEW JERSEY

4:22-15. Definitions.

As used in this article:

'Animal' or 'creature' includes the whole brute creation . . .

4:22-18. Carrying animal in cruel manner; misdemeanor.

A person who shall carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhuman manner, shall be guilty of a misdemeanor and punished as provided in section 4:22-26 of this title.

4:22-19. Failure to care for impounded animals; misdemeanor.

A person who shall impound or confine, or cause to be impounded or confined, in a pound or other place, a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water, shall be guilty of a misdemeanor and punished as provided in section 4:22-26 of this title.

4:22-20. Abandoning disabled animal to die in public place; misdemeanor.

A person who shall abandon a maimed, sick, infirm or disabled animal or creature to die in a public place, shall be guilty of a misdemeanor and punished as provided in section 4:22-26 of this title.

4:22-26. Acts constituting cruelty in general; penalty.

A person who shall:

a. Overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, or cruelly beat or otherwise abuse or needlessly mutilate or kill a living animal or creature;

b. Cause or procure to be done by his agent, servant, employee or otherwise an act enumerated in subsection 'a' of this section;

c. Inflict unnecessary cruelty upon a living animal or creature of which he has charge or custody either as owner or otherwise, or unnecessarily fail to provide it with proper food, drink, shelter or protection from the weather;

d. Receive or offer for sale a horse which by reason of disability, disease or lameness, or any other cause, could not be worked without violating the provisions of this article;

e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

f. Be present and witness, encourage, aid or assist in an activity enumerated in subsection 'e' of this section;

g. Permit or suffer a place owned or controlled by him to be used as provided in subsection 'e' of this section;

h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhuman manner;

i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;

j. Impound or confine or cause to be confined in a pound or other place a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water;

k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;

l. Wilfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L. 1941, c. 151 (C. 4:19-15.1 *et seq.*); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders' association, a 4-H club, an educational agricultural program, an equestrian team, a humane society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under 2 months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under 2 months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than 1 inch from the tip end thereof, or half cropping or cutting both ears or either ear more than 1 inch from the tip end thereof, or who shall have or keep in his possession sheep or cattle, which he claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a dog or cat—

Shall forfeit and pay a sum not to exceed \$250.00 to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals.

NEW MEXICO

30-18-1. Cruelty to animals.

Cruelty to animals consists of:

A. torturing, tormenting, depriving of necessary sustenance, cruelly beating, mutilating, cruelly killing or overdriving any animal;

B. unnecessarily failing to provide any animal with proper food or drink; or

C. cruelly driving or working any animal when such animal is unfit for labor. Whoever commits cruelty to animals is guilty of a petty misdemeanor.

[Penalty: Imprisonment not to exceed 6 months or a fine of not more than \$500.00, or both (§31-19-1).]

NEW YORK

350. Definitions.

1. 'Animal,' as used in this article, includes every living creature except a human being;

2. 'Torture' or 'cruelty' includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

353. Overdriving, torturing and injuring animals; failure to provide proper sustenance.

A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both . . .

355. Abandonment of animals.

A person being the owner or possessor, or having charge or custody of an animal, who abandons such animal, or leaves it to die in a street, road or public place, or who allows such animal, if it becomes disabled, to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

356. Failure to provide proper food and drink to impounded animal.

A person who, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both. In case any animal shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which any such animal shall be so confined, and to supply it with necessary food and water, so long as it shall remain so confined; such person shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such animal, and the said animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

NORTH CAROLINA

14-360. Cruelty to animals; construction of section.

If any person shall wilfully overdrive, overload, wound, injure, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill or cause or procure to be overdriven, overloaded, wounded, injured, tortured, tormented, deprived of necessary sustenance, cruelly beaten, needlessly mutilated or killed as aforesaid, any useful beast, fowl or animal, every such offender shall for every such offense be guilty of a misdemeanor punishable by a fine of up to one thousand dollars (\$1,000) and imprisonment for up to one year. In this section, and in every law which may be enacted relating to animals, the words 'animal' and 'dumb animal' shall be held to include every living creature; the words 'torture,' 'torment' or 'cruelty' shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted. Such terms shall not be construed to prohibit the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.

14-361. Instigating or promoting cruelty to animals.

If any person shall willfully set on foot, or instigate, or move to, carry on, or promote, or engage in, or do any act towards the furtherance of any act of cruelty to any animal, he shall be guilty of a misdemeanor punishable by a fine of up to one thousand dollars (\$1,000) and imprisonment for up to one year.

14-361.1. Abandonment of animals.

Any person being the owner or possessor, or having charge or custody of an animal, who willfully and without justifiable excuse abandons the animal is guilty of a misdemeanor punishable by a fine of up to five hundred dollars (\$500.00) and imprisonment for up to six months.

NORTH DAKOTA

36-21.1-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. 'Animal' includes every living animal except the human race.

2. 'Board' means the state livestock sanitary board.

3. 'Cruelty' or 'torture' includes every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused or permitted . . .

36-21.1-02. Overworking or mistreating animals.

1. No person may overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor.

2. No person may deprive any animal over which he has charge or control of necessary food, water, or shelter.

3. No person may keep any animal in any enclosure without exercise and wholesome change of air.

4. No person may abandon any animal.

5. No person may allow any maimed, sick, infirm, or disabled animal of which he is the owner, or of which he has custody, to lie in any street, road, or other public place for more than three hours after notice.

6. No person may willfully instigate, or in any way further, any act of cruelty to any animal or animals, or any act tending to produce such cruelty.

7. No person may cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements, and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subsection do not apply to the North Dakota state fair association, to agricultural fair associations, to any agricultural display of caged animals by any political subdivision, or to district, regional, or national educational livestock or poultry exhibitions. Zoos which have been approved by the health district or the governing body of the political subdivision which has jurisdiction over the zoos are exempt from the provisions of this subsection . . .

[Penalty: Maximum one year's imprisonment, a fine of \$1,000, or both (§12.1-32-01).]

OHIO

959.01. Abandoning animals.

No owner or keeper of a dog, cat, or other domestic animal, shall abandon such animal.

[Penalty for violation of Section 959.01: Minor misdemeanor, punishable by a fine of not more than \$100 (§959.99, 2929.21).]

959.02. Injuring animals.

No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a horse, mare, foal, filly, jack, mule, sheep, goat, cow, steer, bull, heifer, ass, ox, swine, dog, cat, or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity.

[Penalty for violation of Section 959.02: If the value of the animal killed or the injury done amounts to less than \$300, misdemeanor of the second degree, punishable by not more than 90 days' imprisonment and/or a fine of not more than \$750. If the value of the animal killed or the injury done amounts to \$300 or more, misdemeanor of the first degree, punishable by not more than six months' imprisonment and/or a fine of not more than \$1,000 (§959.99, 2929.21).]

959.13. Cruelty to animals.

(A) No person shall:

(1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;

(2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the animals would otherwise become sick or in some other way suffer. Division (A)(2) of this section does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, shelter means a man-made enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation;

(3) Carry or convey an animal in a cruel or inhuman(e) manner;

(4) Keep animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk . . .

[Penalty: Misdemeanor of the second degree, punishable by not more than 90 days' imprisonment and/or a fine of not more than \$750 (§959.99, 2929.21).]

(C) All fines collected for violations of this section shall be paid to the society or association for the prevention of cruelty to animals, if there be such in the county, township, or municipal corporation where such violation occurred.

OKLAHOMA

21:1685. Cruelty to animals.

Any person who shall willfully or maliciously overdrive, overload, torture, destroy or kill, or cruelly beat or injure, maim or mutilate, any animal in subjugation or captivity, whether wild or tame, and whether belonging to himself or to another, or deprive any such animal of necessary food, drink or shelter; or who shall cause, procure or permit any such animal to be so overdriven, overloaded, tortured, destroyed or killed, or cruelly beaten or injured, maimed

or mutilated, or deprived of necessary food, drink or shelter; or who shall willfully set on foot, instigate, engage in, or in any way further any act of cruelty to any animal, or any act tending to produce such cruelty, shall be punished by imprisonment in the penitentiary not exceeding five (5) years, or by imprisonment in the county jail not exceeding one (1) year, or by fine not exceeding Five Hundred Dollars (\$500.00); and any officer finding an animal so maltreated or abused shall cause the same to be taken care of, and the charges therefor shall be a lien upon such animal, to be collected thereon as upon a pledge or a lien.

21:1686. Abandoned animals—Destroyed how.

A. Any person owning or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons said animal or who allows said animal to lie in a public street, road, or public place one (1) hour after said person receives notice by a duly constituted authority that the animal is disabled or dead, upon conviction, shall be guilty of a misdemeanor . . .

D. For the purpose of the provisions of this section and Section 1691 of this title, the term abandon means the voluntary relinquishment of an animal with no intention to retain possession and shall include but shall not be limited to vacating a premises and leaving the animal in or at the premises, or failing to feed the animal or allowing it to stray or wander onto private or public property with the intention of surrendering ownership or custody over said animal.

21:1691. Abandoning of domestic animals along streets or highways or in any public place prohibited.

Any person who deposits any live dog, cat, or other domestic animal along any private or public roadway, or in any other private or public place with the intention of abandoning the domestic animal upon conviction, shall be guilty of a misdemeanor.

21:1692. Penalty.

Any person found guilty of violating any of the provisions of Sections 1686 . . . 1691 of this title shall be punished by a fine in an amount not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than one (1) year, or by both said fine and imprisonment.

OREGON

167.850. Definition and classification of the crime of cruelty to animals.

(1) A person commits the crime of cruelty to animals if, except as otherwise authorized by law, he intentionally or recklessly:

(a) Subjects any animal under human custody or control to cruel mistreatment; or

(b) Subjects any animal under his custody or control to cruel neglect; or

(c) Kills without legal privilege any animal under the custody or control of another.

(2) As used in this section, 'animal' includes birds.

(3) Cruelty to animals is a Class B misdemeanor.

167.860. Specific acts defined as cruelty to animals; defense; exceptions.

(1) As used in this section, 'animal' means any mammal, bird, reptile or amphibian.

(2) Any person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills, or causes or procures such cruel treatment of any animal, or who, having the charge of or custody of any animal as owner, or otherwise, inflicts cruelty upon the animal, shall, upon conviction, be guilty of a Class B misdemeanor.

(3) Every owner or person having the charge or custody of any animal, who cruelly drives or works the animal when unfit for labor, or cruelly abandons the animal, or carries or causes the animal to be carried in or upon any vehicle or otherwise, in a cruel, inhuman manner, or knowingly or wilfully authorizes or permits the animal to be subjected to torture, suffering, or cruelty of any kind, shall be punished for each and every offense in the manner provided in subsection (2) of this section.

(4) Except in the case of an emergency, every owner or person having the charge or custody of any animal, who deprives such animal of necessary and adequate food and drink for more than 36 hours, shall be punished for each and every offense in the manner provided in subsection (2) of this section . . .

[Penalty: Up to 6 months' imprisonment and/or a fine of up to \$1,000 (\$161.615, 161.635).]

PENNSYLVANIA

18:5511. Cruelty to animals . . .

(3) As used in this subsection, the following terms shall have the meanings given to them in this paragraph:

'Domestic animal.' Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal . . .

(c) Cruelty to animals.—A person commits a summary offense if he wantonly or cruelly illtreats, overloads, beats or otherwise abuses any animal, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care. . .

[Penalty: Summary Offense: Fine not exceeding \$300 (\$1101).]

RHODE ISLAND

4-1-1. Definitions . . .

(1) The words 'animal' and 'animals' shall be held to include every living creature except a human being . . .

4-1-2. Overwork, mistreatment, or failure to feed animals— 'Shelter' defined.

Whoever shall overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or cruelly kill, or cause or procure to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or cruelly killed, any animal, and whoever, having the charge or custody of any animal, either as owner or otherwise, shall inflict cruelty upon that animal, or shall willfully fail to provide that animal with proper food, drink, shelter or protection from the weather, shall, for every such offense, be imprisoned not exceeding eleven (11) months, or be fined not less than fifty dollars (\$50.00) nor exceeding five hundred dollars (\$500), or be both imprisoned and fined as aforesaid.

'Shelter,' as used in this chapter, shall mean a structure used to house any animal, and which will provide sufficient protection from inclement elements for the health and well-being of the animal.

4-1-3. Unnecessary cruelty.

Every owner, possessor or person having the charge or custody of any animal, who shall cruelly drive or work that animal when unfit for labor, or cruelly abandon that animal, or who shall carry that animal, or cause that animal to be carried, in or upon any vehicle or otherwise in a cruel or inhuman manner, or wilfully authorize or permit that animal to be subjected to unnecessary torture, suffering or cruelty of any kind, or who shall place or cause to have placed on any animal any substance that may produce irritation or pain, or that shall be declared a hazardous substance by the U. S. Food and Drug Administration or by the Rhode Island Department of Health, shall be punished for every such offense in the manner provided in 4-1-2; provided however, that this section shall not be deemed to include any drug having curative and therapeutic effect for disease in animals and which is prepared and intended for veterinary use.

4-1-4. Abandonment of infirm animals.

If any maimed, sick, infirm or disabled animals shall be abandoned to die, by any owner or person having charge of that animal, that person shall, for every such offense, be punished in the manner provided in 4-1-2 . . .

SOUTH CAROLINA

47-1-10. 'Animal' and 'animals' defined.

In this chapter the words 'animal' or 'animals' shall be held to include all brute creatures.

47-1-40. Ill-treatment of animals generally.

(A) Whoever overloads, overdrives, overworks, ill-treats, deprives of necessary sustenance, shelter, or inflicts unnecessary pain or suffering upon any animal or causes these things to be done, whether the person is the owner of the animal or has charge or custody of it, for every offense, is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding thirty days or by a fine of not less than fifty dollars nor more than two hundred dollars for a first offense; by imprisonment not exceeding sixty days or by a fine not exceeding five hundred dollars, or both, for a second offense; or by imprisonment not exceeding one year or by a fine not exceeding one thousand dollars, or both, for a third or subsequent offense.

(B) Whoever tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon any animal or causes the acts to be done for any of the offenses is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not to exceed sixty days or by a fine not to exceed five hundred dollars, or both.

(C) The provisions of this section do not apply to fowl, accepted animal husbandry practices of farm operations, the training of animals, or the practice of veterinary medicine.

47-1-50. Cruel work, abandonment, carriage in vehicles, and unnecessary torture.

Every owner, possessor or person having the charge or custody of any animal who:

- (1) Cruelly drives or works it when unfit for labor;
 - (2) Cruelly abandons it;
 - (3) Carries it, or causes it to be carried, in or upon any vehicle or otherwise in an unnecessarily cruel or inhuman manner; or
 - (4) Knowingly or wilfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind;
- Shall, for every such offense, be guilty of a misdemeanor and shall be punished for every such offense in the manner prescribed in 47-1-40.

47-1-70. Abandonment of infirm animal in public place.

A person, being the owner or possessor or having charge or custody of a maimed, diseased, disabled or infirm animal in any town or city of this State, who abandons such animal or leaves it to die in a street, road, highway or other public place more than three hours after he receives notice that it is left disabled is guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or imprisonment not exceeding thirty days.

SOUTH DAKOTA

40-1-1. Definition of terms . . .

- (1) 'Animal' shall include every living dumb creature;
- (2) 'Torture,' 'torment,' and 'cruelty' shall include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted . . .

40-1-2. Overwork, torture, starving or cruelty to animal prohibited.

No person shall overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, drink, or shelter, cruelly beat, mutilate, or cruelly kill any animal.

40-1-2.1. Abandoning animal prohibited.

No person may abandon any animal.

40-1-6. Impounding or leaving of animal without proper attention prohibited.

No person shall impound, or permit any animal to be in any building, enclosure, lane, street, square, or lot without proper care and attention for more than twelve consecutive hours.

40-1-15. Violation of chapter as misdemeanor.

A violation of any provision in this chapter, which is not otherwise classified, is a Class 2 misdemeanor.

40-1-22. Killing or injuring animal other than livestock as misdemeanor.

Every person who maliciously kills or injures any animal, other than those specified in 40-1-21 [livestock], belonging to another, or any animal whatever belonging to himself, is guilty of a Class 1 misdemeanor.

[Penalty: Class 1 misdemeanor: one year's imprisonment in county jail and/or \$1,000 fine; Class 2 misdemeanor: 30 days' imprisonment in county jail and/or \$100 fine (§22-6-2).]

TENNESSEE

39-3-101. Definitions.

In this part, and in every law relating to or affecting animals, the words animal or dumb animal shall be held to include every living creature; the words torture, torment, or cruelty shall be held to include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted; but nothing herein shall be construed as prohibiting the shooting of birds or game for the purpose of human food, or the use of animate targets by incorporated gun clubs.

39-3-104. Cruelty to animals.

If any person shall overdrive, overload, torture, torment, deprive of necessary sustenance, or cruelly beat, or needlessly mutilate, or kill, or cause or procure same to be done, as aforesaid, any living creature, or use, buy, sell, or exchange any horse or mule, when unfit for labor, every such offender shall, for every offense, be guilty of a misdemeanor. Nothing herein shall prohibit the purchase of animals by humane societies, incorporated under the laws of this state, for the purpose of humanely killing the same.

39-3-106. Failure to feed and water impounded animals.

Any person who shall impound, or cause to be impounded in any pound or other place, any creature, shall supply to the same during such confinement a sufficient quantity of good and wholesome food and water, and in default thereof shall be guilty of a misdemeanor.

39-3-110. Aiding and promoting cruelty to animals.

Every person who shall willfully instigate, or promote, or engage in, or do any act toward the furtherance of any act of cruelty to any animal, shall be guilty of a misdemeanor.

39-3-121. Abandonment of dogs and cats.

It is hereby declared to be a misdemeanor to abandon or otherwise willfully leave any animal of the canine or feline species on public lands or rights of way. Any person convicted of violating the provisions of this section shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) or imprisoned in the county jail or workhouse not to exceed thirty (30) days, or both such fine and imprisonment.

39-1-202. Penalty for misdemeanor.

Every person who is convicted of a misdemeanor, the punishment for which is not otherwise prescribed by a statute of this state, shall be punished by imprisonment in the county jail or workhouse not more than one year, or by fine not exceeding one thousand dollars (\$1,000), or by both, in the discretion of the court.

TEXAS

42.11. Cruelty to Animals.

- (a) A person commits an offense if he intentionally or knowingly:
 - (1) tortures or seriously overworks an animal;
 - (2) fails unreasonably to provide necessary food, care, or shelter for an animal in his custody;

- (3) abandons unreasonably an animal in his custody;
- (4) transports or confines an animal in a cruel manner;
- (5) kills, injures, or administers poison to an animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;
- (6) causes one animal to fight with another; or
- (7) uses a live animal as a lure in dog race training or in dog coursing on a racetrack . . .

(c) For purposes of this section, 'animal' means a domesticated living creature and wild living creature previously captured. 'Animal' does not include an uncaptured wild creature or a wild creature whose capture was accomplished by conduct at issue under this section.

[Penalty: Class A misdemeanor: Fine not to exceed \$2,000 and/or imprisonment not to exceed one year (§12.21).]

UTAH

76-9-301. Cruelty to animals.

- (1) A person commits cruelty to animals if he intentionally or knowingly:
 - (a) tortures or seriously overworks an animal;
 - (b) fails to provide necessary food, care, or shelter for an animal in his custody;
 - (c) abandons an animal in his custody;
 - (d) transports or confines an animal in a cruel manner;
 - (e) kills, injures, or administers poison to an animal without legal privilege; or
 - (f) causes any animal, not including a dog, to fight with another animal or creature of like kind for amusement or gain; or causes any animal, including a dog, to fight with a different kind of animal or creature for amusement or gain . . .

[Note, however, that dog fighting has been made a felony in Utah (§76-9-301.1).]

[Penalty: Class B misdemeanor, up to 6 months' imprisonment and/or a fine of up to \$1,000 (§76-3-204, 76-3-301).]

VERMONT

13:401. Animal defined.

For the purposes of this chapter, the word 'animal' or 'animals' shall include and extend to all brute creatures.

13:403. Cruelty to animals generally.

(a) A person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills any animal, or causes or procures it to be done, or having the charge or custody of an animal, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, shelter or protection from the weather, shall be imprisoned not more than one year or fined not more than \$200.00, or both.

(b) An owner, possessor or person having the charge or custody of an animal, who cruelly drives or works the same when unfit for labor, or cruelly abandons the same, or who carries or causes such animal to be carried upon a vehi-

cle or otherwise in an unsafe or cruel manner, or knowingly or wilfully authorizes or permits the same to be subjected to unnecessary torture, suffering or cruelty, shall be punished as provided in subsection (a) of this section.

13:404. Abandonment of infirm animals.

If any maimed, sick, infirm, or disabled animals shall be abandoned by any owner or person having charge of same, such person shall for every offense, be punished in the manner provided in section 403(a) of this title.

VIRGINIA

3.1-796.66 Definitions. The following words as used in this chapter shall have the following meanings:

'Adequate feed' means the provision, at suitable intervals, at least once daily, of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal.

'Adequate water' means a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals and in a suitable manner for the species at least once daily at any interval.

'Adequate shelter' means shelter that may reasonably be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather . . .

'Animal' means domestic animals, including both agricultural and companion animals, if not specified otherwise . . .

3.1-796.68. Duties of owner. Each owner shall have the duty to provide for each of his companion animals, pursuant to regulations adopted by the Board:

1. Adequate feed and adequate water;
2. Adequate shelter;
3. Adequate space in the primary enclosure for the particular type of animal depending upon its age, size and weight;
4. Veterinary care when needed and to prevent suffering; and
5. Humane care and treatment.

The provisions of this section shall also apply to every animal shelter with respect to animals contained therein.

3.1-796.73. Abandonment of animals; penalty.

No person shall abandon any animal. Abandonment for the purposes of this section is defined as deserting, forsaking, or intending to absolutely give up an animal without securing another owner or without providing the necessities set out in §3.1-796.68. Violation of this section shall be punishable as a Class 3 misdemeanor.

3.1-796.122. Cruelty to animals; penalty.

Any person who (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; or (ii) deprives any animal of necessary sustenance, food, drink or shelter; or (iii) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; or (iv) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (v) causes any of the above things, or being the owner of such animal permits such acts to be done by

another, shall be guilty of a Class 1 misdemeanor.

Any person who abandons any dog, cat or other domesticated animal in any public place including the right-of-way of any public highway, road or street or on the property of another shall be guilty of a Class 3 misdemeanor.

Nothing in this section shall be construed to prohibit the dehorning of cattle.

For the purposes of this section . . . the word animal shall be construed to include birds and fowl.

[Penalties: Class 1 misdemeanor: Imprisonment for not more than 12 months and/or a fine of not more than \$1,000; Class 3 misdemeanor: A fine of not more than \$500 (§18.2-11).]

WASHINGTON

16.52.070. Certain acts as cruelty—Penalty.

Except as provided in RCW 9A.48.080, every person who cruelly overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills, or causes, procures, authorizes, requests or encourages so to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten or mutilated or cruelly killed, any animal; and whoever having the charge or custody of any animal, either as owner or otherwise, inflicts unnecessary suffering or pain upon the same, or unnecessarily fails to provide the same with the proper food, drink, air, light, space, shelter or protection from the weather, or who wilfully and unreasonably drives the same when unfit for labor or with yoke or harness that chafes or galls it, or check rein or any part of its harness too tight for its comfort, or at night when it has been six consecutive hours without a full meal, or who cruelly abandons any animal, shall be guilty of a misdemeanor. For the purposes of this section, necessary sustenance or proper food means the provision at suitable intervals, not to exceed twenty-four hours, of wholesome foodstuff suitable for the species and age of the animal and sufficient to provide a reasonable level of nutrition for the animal.

[Penalty: Imprisonment in the county jail for not more than 90 days and/or a fine of up to \$1,000 (§9A.20.021).]

WEST VIRGINIA

61-8-19a. Cruelty to dogs and cats prohibited; putting such animals in fights against each other prohibited; penalties.

If any person shall cruelly, or needlessly beat, torture, torment, mutilate, kill or willfully deprive necessary sustenance, to any dog or cat, irrespective of whether any such dog or cat be his or her own or that of another person, or if any such person shall impound or confine any such dog or cat in any place unprotected from the elements or fail to supply the same with a sufficient quantity of food and water, or shall abandon to die any maimed, sick, or diseased dog or cat or shall be engaged in or employed at dogfighting, or putting one dog or cat to fight against another dog or cat or any similar cruelty to any dog or cat, or shall receive money for the admission of any person, or shall use, train or possess a dog or cat for the purpose of seizing, detaining or maltreating any other dog or cat, he or she shall be guilty of a misdemeanor, and, upon conviction,

shall be fined not less than one hundred nor more than one thousand dollars, and in addition thereto, in the discretion of the court or magistrate, may be imprisoned in the county jail not exceeding thirty days, and the county humane officer may remove the dog or cat involved and place said animal in the county pound, and said dog or cat shall not be returned to owner (or perpetrator of act of cruelty) but shall be put up for adoption to desirable home or given over into the care of a humane society, or upon the recommendation of a licensed veterinarian shall be humanely destroyed.

61-8-19. Cruelty to animals . . . penalties.

(a) If any person shall cruelly, unnecessarily or needlessly beat, torture, torment, mutilate, kill, or overload, overdrive, or willfully deprive of necessary sustenance, any horse or other domestic animal, whether such horse or other animal be his own or that of another person, or shall impound or confine any such animal in any place and fail to supply the same with a sufficient quantity of good, wholesome food and water, or shall carry in or upon any vehicle, or otherwise, any such animal in a cruel or inhuman manner, or knowingly feed a cow on food that produces impure or unwholesome milk, or shall abandon to die any maimed, sick, infirm or diseased animal . . . he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than five nor more than one hundred dollars, and in the discretion of the court or magistrate, may be imprisoned in the county jail not exceeding six months.

WISCONSIN

951.01. Definitions.

In this chapter:

(1) 'Animal' includes every living:

- (a) Warm-blooded creature, except a human being;
- (b) Reptile; or
- (c) Amphibian.

(2) 'Cruel' means causing unnecessary and excessive pain or suffering or unjustifiable injury or death . . .

951.02. Mistreating animals.

No person may treat any animal, whether belonging to himself or another, in a cruel manner . . .

951.13. Providing proper food and drink to confined animals.

No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this section.

(1) Food. The food shall be sufficient to maintain all animals in good health.

(2) Water. If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

951.14. Providing proper shelter.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(1) Indoor standards. Minimum indoor standards of shelter shall include:

(a) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.

(b) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(2) Outdoor standards. Minimum outdoor standards of shelter shall include:

(a) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, 'caged' does not include farm fencing used to confine farm animals.

(b) Shelter from inclement weather.

1. 'Animals generally.' Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

2. 'Dogs.' If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(3) Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include:

(a) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(b) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(4) Sanitation standards. Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

951.15. Animals; neglected or abandoned . . .

(1) No person may abandon any animal . . .

951.18. Penalties.

Any person violating § 951.02 . . . 951.15(1) is subject to a Class C forfeiture. Any person who intentionally or negligently violates any of those sections is guilty of a Class A misdemeanor. Any person who intentionally violates § 951.02 resulting in the mutilation, disfigurement or death of an animal, is guilty of a Class E felony.

[Penalties: Class C forfeiture: A forfeiture not to exceed \$500 (§939.52); Class A misdemeanor: A fine of up to \$10,000 and/or imprisonment up to 9 months (§939.51); Class E felony: A fine of up to \$10,000 and/or imprisonment up to 2 years (§939.50).]

WYOMING

11-34-101. Definitions.

(i) 'Animal' shall be held to include every living dumb creature . . .

11-34-102. Cruelty to animals generally.

Every person who overdrives, overloads, drives when overloaded, overworks or willfully and maliciously tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, or willfully and maliciously and needlessly mutilates or kills, or carries in or upon any vehicle, or otherwise in a cruel or inhuman manner any animal, or causes or procures it to be done; or who, having the charge and custody of any animal, unnecessarily fails to provide it with the proper food, drink or protection from the weather, or cruelly abandons it shall upon conviction, be punished by imprisonment in the county jail not exceeding one (1) year or by fine not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) or by both such fine and imprisonment.

1. *Laws of New Hampshire*, Vol. 1, Province Period, Appendix D. Complete text. 1904.
2. *Old South Leaflets*, Vol. VII, Boston, 1896, p. 18-20.
3. New York. State Courts. *Digest of New York Statutes and Reports*, from earliest period to the year 1860. Vol. 1, page 124.
4. *Revised Statutes*, 1827-28, Fourth Part, Chapter I, Title VI.
5. *Journal of the Assembly of the State of New York*, 51st Session, Second Meeting. Albany: Croswell, 1828, pages 45-6.
6. *Revised Statutes*, Part IV, Chapter 130, Section 22.
7. *Statutes of Connecticut*, Title XXI, p. 184.
8. *Statutes of the Territory of Wisconsin*, page 365, Sec. 19.
9. Act of 28 August, 1856, Art. 2345 (714).
10. 1860 *Laws of the General Assembly*, Title IV, Sec. 46, p. 395.
11. 1864 *Laws of the Territory of Idaho*, XII, Sec. 143, p. 329.
12. We are indebted to Professor David S. Favre and attorney-veterinarian Dr. Murray Loring for their valuable insights on this topic. Their noteworthy publication *Animal Law* discusses a variety of topics, including the problems of cruelty statutes, and provides a clear explanation, with case support, of the legal principles involved.
13. "Accepted veterinary practice" includes performing, without anesthesia, such procedures as dehorning of cattle at any age, docking the tails of pigs and sheep, and castration.
14. Illinois requires "veterinary care when needed to prevent suffering"; Maine, "necessary medical attention"; Maryland, "necessary veterinary care"; Pennsylvania, "veterinary care"; Puerto Rico, "medical or veterinary treatment if needed."
15. The penalty for a gross misdemeanor in Nevada is up to one year's imprisonment and/or a fine of up to \$1,000.
16. On a national level, the American Humane Association (AHA) offers to match up to \$500 for "information leading to the arrest and conviction of any person or persons willfully poisoning any animal." Reward posters are available from AHA's office at 9725 E. Hampden Avenue, Denver, CO, 80231.
17. In some states, every "willful act," etc.

Chapter II

FIRST FEDERAL LAW TO PREVENT CRUELTY TO ANIMALS

*by The Animal and Plant Health Inspection Service
United States Department of Agriculture*

I would be astonished to find Texas cattle in good condition upon arrival at their places of destination. The manner in which they are crowded on ship board and cars, after being exhausted by hurried journeys over the immense prairies of Texas, necessarily develops any latent germs of disease and may cause diseases in the healthiest cattle. For instance, thousands are shipped to New Orleans from Indianola and Lavacca, a journey from three to six days, during which they receive neither food nor water. At New Orleans, they are transferred to boats for Cairo, and thence to Tolono, Illinois. During the entire trip they have food and water but about three times.

That's how Dr. Manheimer of the Chicago Board of Health described conditions in Texas, 113 years ago.

Between Indianola, Texas, and New Orleans, Louisiana, cattle were carried on steamers, under deck, in a crowded condition, with poor ventilation—four and five days and sometimes longer—without feed or water. In one instance reported, of 150 cattle shipped, 40 died on the short voyage.

Other voices were heard in protest against cruelty to animals in transit. The people of Boston were aroused by reports of inhumane treatment of cattle during transport and by reports of diseased meats found in their markets. In April 1871, a joint special committee of the Aldermen and Common Council was appointed to collect information and to ascertain what legislation was necessary to protect the public health.

From the *Chicago Live Stock Reporter*, the committee learned that:

There is great cruelty in transportation. Cars are terribly overcrowded, and animals are carried great distances without food or water. The result is that they are taken out of the cars at Chicago with bruises and sores, and legs and horns are broken; many of them dead and more almost dead; and sometimes cattle and hogs, and sometimes cattle and sheep, are packed in the same car which results in the smaller animals being trampled upon by the larger. The men employed to drive them into the cars (at Chicago) are armed with saplings weighing often from eight to ten pounds, with sharp spikes or goads at the end. They rush upon the cattle, yelling, swearing, and punching them with these spikes often twenty, thirty, or forty times, taking little care to avoid the eyes. Eighteen to twenty cattle are thus forced into thirty-foot cars giving less than two foot space to the animal and not infrequently smaller animals—calves, sheep and swine—are crowded under them. In this way they are often carried for days without food, water, or possibility of lying down.

Almost certainly, this same neglectful and inhumane system of loading and transportation of animals prevailed over the entire United States, based on similar reports received from many livestock shipping points.

It was chronicled in Chicago papers in 1870 as a remarkable fact that a shipment of 194 cattle from Brigham Young's farm in Utah to Chicago, "... in riding 1,500 miles, the loss of weight was only 210 pounds per head."

Publication of scathing criticism of the cattle transportation methods resulted in the introduction of a bill in Congress in 1871 to regulate cattle transportation. The bill was finally passed on March 3, 1873, and became known as the Twenty-Eight Hour Law.

The 1873 Act was a step forward in developing humane standards for the transportation of cattle, sheep, and swine. In order to comply with the Act, transportation companies were obliged to provide facilities at convenient places on their lines where feed, water, and rest could be furnished. Early pens and enclosures provided for this purpose were extremely crude and were often poorly furnished. Many of the loading and unloading chutes were poorly constructed and resulted in injury to the animals. Few of the pens provided for protection against rain or snow; some were not equipped with either feeding or watering troughs. The pens were often so muddy that cattle would not lie down even to rest. Too often, the feed was dumped in the mud and animals forced to drink from contaminated mud holes.

The conditions under which livestock was handled in transit were slightly improved under this law. Dissatisfaction arose among the shippers because of the poor conditions and the frequent unloading of the animals. Numerous convictions for noncompliance with the Act were obtained, but the Act of 1873 was repealed and the present Twenty-Eight Hour Law was enacted on June 29, 1906.

The Twenty-Eight Hour Law of 1906 was enacted, however, before motor transportation had come into general use; so protective provisions of the Act do not apply to animals moved interstate in trucks. Several efforts have been made to have the law amended to cover this modern development in livestock transportation, but such amendments have not been made.

The 1906 Act was a stronger law than that of 1873, and its provisions were enforced immediately. Waybills and records maintained by carriers and others were examined daily. Apparent violations were reported at stations where U. S. Department of Agriculture livestock inspectors of the Bureau of Animal Industry, now known as the Animal and Plant Health Inspection Service, were stationed. Inspections were made at feed, water, and rest stations throughout the United States to ascertain whether the facilities and equipment were maintained for the safe and humane handling of the species of animals which they were designed to accommodate. Unsatisfactory conditions found at the stations were promptly brought to the attention of the affected railroads for corrective action.

Effective enforcement of the law was evident even in early years. The 1908 Yearbook of the Department of Agriculture carried the following statement on the enforcement of the Twenty-Eight Hour Law:

During the year a very large number of cases have been brought, at the instigation of this Department, against various railway companies for violations of the Twenty-Eight Hour Law, which limits the num-

ber of hours during which a shipment of livestock may be kept in cars without unloading for feed, water, and rest. In 401 of these cases penalties were imposed amounting in all to \$61,530, and costs assessed amounting to \$7,201.70, and 828 cases were pending at the close of the year.

Enforcement of the Act has continued throughout the years. However, with the increased use of trucks as a means of conveyance, there has been a steady decline in the movement of livestock by railroads. In contrast to the early years, when most shipments were by rail and there were about 900 feed, water, and rest stations operated by the railroad companies, the number of such stations has dwindled to about 25, and many of these have not been used for several years. Fewer than 100 violations of the Twenty-Eight Hour Law were reported in 1976, as compared to nearly 400 cases reported as recently as 1967. No violations of the Twenty-Eight Hour Law were reported in 1988.

The Twenty-Eight Hour Law has become a way of life, and many fail to appreciate the improvements that have been made in the humane handling of livestock while in transit on our railroads. Constant vigilance is also a reminder that the government is interested in seeing that the law is carried out.

The Twenty-Eight Hour Law was enacted in response to public demand for the humane care and treatment of animals destined for slaughter. Results of this law can be measured by the improved condition of livestock in transit and at slaughtering plants; greater returns to the producer; and wholesome meat for the consumer at reasonable prices.

The year 1984 was significant in that it marked the 100th anniversary of the first nationally organized efforts to control and stamp out dangerous animal diseases and to ensure more humane care of animals.

On May 29, 1884, Congress created the Bureau of Animal Industry (BAI) within the U. S. Department of Agriculture. The purpose of the BAI was to prevent the exportation of diseased livestock and to provide the means for the suppression and eradication of contagious diseases among domestic animals. The BAI was also charged with enforcing the Twenty-Eight Hour Law. The structure and purpose of the BAI still carry on today, but it is now known as Veterinary Services (VS) of the Animal and Plant Health Inspection Service (APHIS).

There have been significant spin-offs from the work of the Bureau and its successors. In the late 1800's, three BAI scientists proved that ticks spread Texas fever in cattle. This discovery in the field of animal health led to the control of yellow fever in humans and enabled U. S. workers to complete the Panama Canal where two attempts by the French failed. In the 100 years since its inception, the BAI and its succeeding agencies have led the fight which has resulted in the eradication of twelve exotic or domestic diseases from the United States.

Veterinary Services' responsibilities expanded beyond disease eradication and control activities in 1966 when the Congress of the United States, responding to public pressure and indignation over inhumane treatment of animals, passed the Animal Welfare Act. It was subsequently amended and expanded in scope in 1970, 1976, and 1985. This legislation thus thrust the present day successor of the old BAI into the arena of the humane care of animals and placed it on a national level.

In 1988, APHIS was reorganized. At that time, the Animal Care and Regulatory Enforcement staffs were removed from Veterinary Services and placed in a section by themselves called Regulatory Enforcement and Animal Care (REAC). REAC is charged with assuring the humane care of warm-blooded animals used for commerce. Similarly, the Horse Protection Act, passed in 1970 and amended in 1976, which gives the Department regulatory authority to prohibit the showing, exhibition, or selling of sored horses, was also assigned to the Animal Care staff. (See Appendix for listing of REAC and Veterinary Services offices.)

Chapter III

HUMANE SLAUGHTER LAWS

by Emily Stewart Leavitt
Updated and Revised by Diane Halverson

The meat-packing industry expanded tremendously during the first half of the twentieth century. However, as packing houses expanded to take in more and more animals, they retained primitive methods of handling and stunning animals in preparation for slaughter. An editorial entitled "Still the Jungle" in the June 18, 1956 issue of the *New Republic* described the slaughtering procedure:

Cattle, like horses, are slugged on the head with iron mallets. The first blow frequently fails to stun them—as they stumble electric shocks force them to their knees so that they may be struck again and again. Calves, hogs, and lambs are strung up (conscious) by chains tied to their hind legs. When the chains slip or legs are disjointed and broken, they crash from high conveyor lines to slaughter house floors. The throats of the calves are severed by sawing motions; lambs are knifed behind an ear and slowly bled to death; hogs with slit throats frequently pass still squealing into scalding vats.

We recoil from the thought of placid animals being subjected to horrors of this kind. If we think further, we recoil from the thought of *human beings* forced, day after day, not only to witness but to be a part of this procedure.

While cruel methods of slaughter were regularly used in meat-packing houses in the United States, what was happening in other parts of the world? The Animal Welfare Institute's *Information Report* for January-February 1956 provides a good historical survey:

- 1874 Switzerland requires that animals be rendered insensible before slaughter.
- 1912 The captive-bolt pistol is invented in England.
- 1920 The Netherlands enacts humane slaughter legislation.
- 1924 Norway enacts humane slaughter legislation.
- 1928 Scotland enacts humane slaughter legislation.
- 1929 Electric stunning is invented in Germany.
- 1932 Ireland enacts humane slaughter legislation.
- 1933 England enacts humane slaughter legislation.
- 1934 Finland enacts humane slaughter legislation.
- 1937 Sweden enacts humane slaughter legislation.
- 1948 Fiji enacts humane slaughter legislation.
- 1950 George A. Hormel Company, Austin, Minnesota, invents and installs CO₂ tunnel for anesthetizing hogs prior to shackling and bleeding.
- 1951 New Zealand enacts humane slaughter legislation. (Parts of France, Germany, Austria and Australia also enacted humane slaughter legislation.)
- 1953 Humane slaughter regulations adopted in Denmark.
- 1954 Inexpensive modification of CO₂ tunnel designed and manufactured by N. E. Wernberg, Copenhagen, Denmark.

1955 Senator Humphrey introduces the first humane slaughter bill ever presented in the Congress. The American Meat Institute calls it "premature" (only 82 years behind Switzerland and at least 20 years behind other countries adopting such legislation).

This concise summary shows how unenlightened and inflexible was the thinking of United States meat packers in the first half of the twentieth century.

Credit must be given, however, to those packing houses which developed and put into practice more humane methods of slaughter before federal humane slaughter legislation was finally enacted in 1958. The following are illustrative:

(a) L. W. Murphy of the George A. Hormel Company developed the use of CO₂ for preslaughter anesthetization of swine.¹

(b) The Oscar Mayer Company of Madison, Wisconsin and the Seitz Packing Company of St. Joseph, Missouri employed the captive-bolt pistol.

(c) The Seitz Packing Company devised the method of directing strong lights at cattle to hold them voluntarily immobile while the captive-bolt pistol was aimed and fired.

(d) Many small packers used ordinary firearms to render livestock unconscious.

HISTORY OF THE FEDERAL HUMANE SLAUGHTER LAW

The initial impetus for national legislation was the outgrowth of a 1954 convention of the American Humane Association in Atlanta. Inspired by a documentary film² complete with sound track of a hog slaughterhouse, humane leaders in attendance resolved to work for a bill to stop needless cruelty to animals in the packing houses. Their specific aim was to outlaw the practices of hoisting and shackling conscious animals and the use of manually operated sledgehammers for stunning.

Legislation was first introduced in the United States Senate on April 11, 1955 by Senator Hubert Humphrey of Minnesota and in the House of Representatives on May 9, 1955 by Representative Martha Griffiths of Michigan. These bills were refused a favorable report by the United States Department of Agriculture, then under the leadership of Ezra Taft Benson, on the grounds that American enterprise could provide better humane slaughter than legislation could, although American enterprise had had fifty years to do so. As a result, the bills were tabled without a hearing.

Similar bills were introduced in 1956. Hearings were held on the Senate bill in the Subcommittee, chaired by Senator Humphrey, on May 9 and 10, 1956. The bill was reported favorably to the full Senate Committee. In the House, Congressman W. R. Poage of Texas led his Subcommittee on an inspection tour of slaughterhouses to study humane and inhumane methods. The sights they witnessed more than confirmed complaints of unnecessary suffering. Pressures were mounting in favor of a compulsory humane slaughter law, inspired both by Congressional verification of inhumane treatment and by public demand.

The bills were reintroduced in the Eighty-fifth Congress. Congressman Poage called a hearing on April 2, 1957 at which humane societies from all parts of the

country were represented. The Animal Welfare Institute exhibited four of the humane stunning instruments then on the market. Among those testifying for the bill were the Amalgamated Meat Cutters and Butcher Workmen of North America, the American Humane Association, the Animal Welfare Institute, the General Federation of Women's Clubs, the Humane Society of the United States, the National Farmers' Union, the Society for Animal Protective Legislation, many state and local humane organizations and church groups. Opponents of the bill included the United States Department of Agriculture, the American Meat Institute, the Farm Bureau, the National Cattlemen's Association, the National Grange, and the Union of Orthodox Rabbis. The bill was reported favorably by the full House Agriculture Committee, June 29, 1957, and on February 4, 1958, the full House of Representatives overwhelmingly passed the compulsory humane slaughter bill. Congressman Poage, warmly supported by Congressman Harold Cooley, Chairman of the Agriculture Committee, managed the bill on the House floor.

In the Senate, at a third set of hearings held April 28 - May 1, 1958, powerful opposition by meat packers resulted in an amendment of the House humane slaughter bill by the Senate Agriculture Committee on June 18, 1958 deleting all the effective sections and turning the legislation into a mere study bill. A storm of disapproval was evoked by this action. Editorials in leading newspapers throughout the country expressed outrage at the destruction of the bill. Senator Humphrey and 17 co-sponsors offered an amendment on the Senate floor to restore the language of the bill, as passed by the House.

On July 29, 1958 came Senator Humphrey's seven-hour successful fight for defeat of the weak study bill. The first order of business was the vote on the study bill reported to the Senate by its Agriculture Committee. Against the protests of the sponsors of the study bill, Majority Leader of the Senate, Lyndon B. Johnson, scheduled the debate. There was scarcely an empty desk on the Senate Floor; and when the vote came, it was 43 to 40 against the Committee bill—an unusual instance of United States Senate reversal of one of its own Committees.

Amendment after amendment was put forward in an attempt to weaken the compulsory bill. Senator Humphrey dared not leave the floor for more than a few minutes in his defense of the House-passed bill. Suffering from a bad cold, his lunch, consisting of a bowl of soup, was "poured down him," as an aide put it, so he could rush back to the debate. Only one weakening amendment, the Case-Javits Amendment, was accepted by the Senate. It exempted the preslaughter handling of kosher-killed animals from the humane requirements of the bill. The Senate passed the effective Humane Slaughter Bill, although now weakened by the Case-Javits Amendment, by a vote of 72 to 9.

Recognizing that disagreements in Conference might result in a loss of the entire humane slaughter bill through delays at the end of the Congressional session, the House Conferees decided to accept the Senate version of the bill, and the House passed it. On August 20, 1958, President Eisenhower signed the bill into law, effective June 30, 1960.

The first federal Humane Slaughter Act covered 80% of the U. S. plants by making it compulsory for all packing companies selling meat to the federal government to use humane methods.

Just as the bill was about to go into effect, an attempt to undermine it was made. "The National Provisioner," in its June 11, 1960 issue, announced:

The biggest buyer of meat for the U. S. Government made a cavity, if not a hole, in the teeth of the Federal Humane Slaughter Act . . . In announcing its procedure for implementing the Federal law which becomes effective July 1, the Military Subsistence Supply Agency, purchaser of all meat for the Armed Forces, said it will require certification of compliance with the humane slaughter regulations only in contracts exceeding \$2,500. The Agency, through its Chicago headquarters and 10 regional buying offices, purchases about 500 million pounds of meat and meat products a year. Although the figures are not broken down by the size of contract, a considerable portion of that volume is understood to be acquired in lots of \$2,500 or less.

Senator Hubert H. Humphrey and Representative W. R. Poage, chief sponsors of the legislation in the Senate and House, and Representative Martha Griffiths immediately pointed out that such an attempted exemption was illegal. Senator Humphrey said on the Senate Floor:

. . . there is a law which even the U. S. Army does not have authority or power to abrogate. That law was passed by the Senate, by the House of Representatives, and signed by the President. I am the author of the Humane Slaughter Act, and I intend to see that the Act is fulfilled.

The Act will go into effect July 1. We allowed 2 years' time for the slaughterhouses to get themselves into conformity and compliance with the Act.

. . . It requires no more bookkeeping or intelligence in the procurement section of the Army to procure meat products according to law than it does to avoid the law. It required a good deal more time to figure out how to evade the law and avoid its impact. I suggest that the Department of the Army get in step at once. It is out of step. I propose that those in charge of this activity read the Act and comply with its provisions.

. . . I trust these remarks will find their way into the hands of the Secretary of the Army, which will save my writing a letter to him. I trust that Mr. Courtney Johnson, the Assistant Secretary in Charge of Logistics, will read what I have said carefully, and if he does not, I intend to call upon the Department of Justice to enforce the law. The law is there, and it needs enforcement. We have plenty of attorneys who can do so. There is an office of the U. S. Attorney in Chicago that can take care of the matter promptly. The law will be enforced.

On June 14th, Senator Humphrey received a statement from the Army that it would comply in full with the provisions of the Humane Slaughter Act.

THE FEDERAL HUMANE SLAUGHTER ACT OF 1978

Senator Robert Dole of Kansas and Congressman George E. Brown, Jr. of California sponsored legislation, enacted in 1978, to provide a more effective enforcement mechanism and to expand the coverage of the Act. Based on the laws requiring federal inspection of meat for sanitary and health reasons, the

Dole-Brown law is based on the authority it gives federal inspectors to prevent inhumane practices by withholding inspection till any cruel methods are corrected. Profits in the meat industry depend on speed in putting animals through "the line." Thus, the fear of having an inspector stop the flow for humane reasons is a powerful economic incentive to avoid cruelty.

The law also requires that any meat imported into the United States be derived from animals slaughtered in packing houses whose standards meet those mandated by the federal Humane Slaughter Act. Importation of meat from inhumanely slaughtered animals is prohibited. Thus, both U. S. importers and foreign exporters of meat and meat products must ensure that humane slaughter methods are used in plants supplying them with meat. USDA personnel have long inspected foreign plants that export to the United States in order to assure that sanitary standards are adhered to; thus, inspection for humane standards can be conducted by the same officials.

Despite the eminently sound and sensible provisions of the legislation, meat industry lobbyists worked persistently behind the scenes to delay action. Dr. F. J. Thomsen, founder of Humane Information Services, for years a tireless advocate of this important measure, died before it finally passed.

The turning point came when Senator Dole chaired incisive hearings in the Senate Agriculture Committee which led directly to passage of the legislation by the Congress.

When the 1978 amendments to the federal Humane Slaughter Act of 1958 went into effect, final regulations were published in the *Federal Register* November 30, 1979. These were summarized in a bulletin to USDA regional directors and supervisors. Key quotations follow:

The Humane Methods of Slaughter Act of 1978 makes humane slaughtering and handling mandatory for all cattle, sheep, swine, goats, horses, mules, and other equines slaughtered under inspection at federally inspected plants . . . The humane stunning and slaughtering provisions contained in Part 390 are now mandatory for all livestock, except those being slaughtered ritually, under the Humane Methods of Slaughter Act of 1978 . . . *Handling Requirements.* The animals shall be handled humanely in the livestock pens and while being driven to and from the pens. Driving of livestock shall be accomplished with a minimum of excitement and discomfort to the animals. With respect to permitted driving implements, determination of the humaneness of a driving implement lies as much in the way it is used as in the implement itself. However, metal pipes and sharp pointed objects shall not be permitted. Electric prods, canvas slappers, or other implements used to drive animals shall be employed as little as possible to minimize excitement and injury to the livestock being driven. All livestock shall have access to water. Feed shall be supplied if livestock are to be held more than 24 hours before being slaughtered. There shall be sufficient room in the pens for animals held overnight to lie down. Electronic prods which are connected to AC house current shall be reduced by a transformer to the lowest effective voltage not to exceed 50 volts AC. There is some evidence that voltages as low as 20 volts AC are effective.

Downer animals shall not be dragged. In some instances, immediate slaughter may be the most humane thing to do, in which case the animal shall be given ante-mortem inspection and then stunned before moving it.

Pens, driveways, and ramps shall be kept in good repair to prevent injury to the livestock. Sharp objects, loose, splintered, or broken boards and other pain producing objects shall be eliminated or repaired. Pen floors and alleyways shall be slip resistant. Sand may be used to provide livestock with a more secure footing, especially during winter months . . .

Whenever a violation of the Humane Methods of Slaughter Act occurs and operations are stopped, the inspector in charge shall notify plant management of the reasons for taking action. If the situation is corrected and the problem resolved at the establishment level, operations may resume. Report the incident to the Area Supervisor. If the matter cannot be resolved at the establishment level, refer plant management to the next level of supervision.

Commenting in the *Federal Register* on complaints from industry about the loss of funds which a plant could suffer when operations are suspended under the law, USDA's Administrator of the Food Safety Inspection Service stated:

The principal purpose of the Act is to deter and prevent inhumane treatment, not to punish for violations. Furthermore, the temporary suspension of inspection for inhumane handling or slaughter would be done in the same manner as the temporary suspension of inspection because of sanitation deficiencies. The use of the 'U. S. Rejected' tag would similarly have the same function and meaning as when used on insanitary equipment. It may be removed by the inspector in charge when the cause is corrected or satisfactory assurances are given.

President Carter approved the amended Federal Meat Inspection Act October 10, 1978. The text of the humane amendments is given in the Appendix.

EFFECTIVE STATE LEGISLATION NEEDED

Because the federal law does not require humane preslaughter handling for kosher-killed animals and because small meat-packing houses which are not federally inspected are subject only to state legislation, each state must pass its own humane slaughter law if all meat animals are to be protected from inhumane treatment.

State legislation must be carefully drafted using all the "teeth" in the federal law and adding effective penalties to make a strong law. To ensure that the terms of the law are clear and unequivocal, a "definition of terms" section should be included. An illustrative example from the definition section of the federal law follows:

Mechanical (the use of captive-bolt stunners or gunshot on sheep, swine, goats, calves, cattle, horses, mules, and other equines)

Electrical (the stunning of swine, sheep, calves, cattle, and goats with electric current)

Chemical (the use of carbon dioxide gas for sheep, calves, and swine)

In state legislation on the subject, the same three acceptable methods of slaughter should be explicitly defined. If those means are not spelled out, a loophole for unscrupulous mishandling will be inadvertently created. Even worse, a statute drafted to include the phrase "or any other means that is rapid and effective" might be interpreted to allow the use of a manually operated sledgehammer. For this reason, it is imperative that every humane slaughter law include the following proviso: "the use of a manually operated hammer, sledge or poleax is declared to be an inhumane method of slaughter."

HOLDING PENS OR RESTRAINING DEVICES

If mechanical captive-bolt stunners or gunshot are to be genuinely humane methods of slaughter, the animal to be slaughtered must remain completely calm and immobile while the gun is aimed and fired. To accomplish that purpose, Foreman Harold Watson of the Seitz Packing Company, St. Joseph, Missouri, had the ingenuity to think of using a simple device: shining three spotlights into the eyes of cattle to make them "freeze" or stand still immediately. Popular with the men doing the stunning because they could carefully aim, fire and effectuate immediate loss of consciousness, they immediately reported any of the spotlights burnt out in order to get a new bulb. The system was used for more than 24 years till Seitz ended the slaughtering part of its business. It should be adopted by other packers.

Immobilization of animals for kosher slaughter presents a different problem. The method of killing animals in Jewish ritual slaughter has been a subject of controversy in connection with humane slaughter laws. It is generally agreed that kosher killing, which is accomplished by slashing the animal's throat with a sharp knife, is acceptable under the requirements for humane slaughter. The cut, which almost severs the neck, is so quick and deep that the animal loses consciousness within seconds. However, the preslaughter handling of animals in kosher slaughter is definitely inhumane when conscious animals are shackled and hoisted before the killing cut is administered. Shackling and hoisting are not a part of the ritual of kosher slaughter, but they have become a standard practice because U. S. Department of Agriculture sanitary regulations prohibit contact of the cut surface of the animal's neck with the packing house floor. This might occur with the traditional method of casting the animal on the floor before the ritual cut. Ritual slaughter requires that the animal be uninjured, so prior stunning has been deemed unacceptable in the United States, although Rabbinical authorities in Sweden have approved pre-slaughter stunning there. Thus, typically, to perform the ritual throat cutting, a shackle is attached to one leg of the animal which is then hoisted so that it hangs upside down from its shackled leg. The animal is then conveyed to the killing floor, struggling and sometimes suffering from a broken leg or split pelvis.

One of the reasons the Case-Javits Amendment was enacted was due to a lack of availability of humane restraining devices in 1958. In the early '60s, Cross Brothers in Philadelphia patented a holding pen which holds adult cattle

in a standing, upright position before and during kosher slaughter. The patents for this pen were purchased by the American Society for the Prevention of Cruelty to Animals, and it was made available royalty-free to the industry.

In 1980, the first conveyORIZED, high-speed, upright restraint system for kosher slaughter was installed at Spencer Foods in Spencer, Iowa. In 1986, the first humane restraint system for kosher calves and sheep was installed at Utica Veal in Marcy, New York. It was designed by Temple Grandin and researchers at the University of Connecticut, with a grant from the Council for Livestock Protection.

Now that good restraint equipment is available, the cruel practice of shackling and hoisting should be abolished. Shackling and hoisting as a method of restraint is not permitted in Canada, Holland, England and Australia and many other European countries. The elimination of shackling and hoisting will have the added advantage of improving employee safety. Many kosher packing plants have voluntarily converted to humane restraint devices for large cattle (85-90%), but unfortunately, some plants (10-15%) continue to use the shackle hoist. For veal calves, however, only one plant has installed humane restraining equipment, and nearly all kosher-killed sheep are shackled and hoisted prior to ritual slaughter in the United States.

Simple, economical devices now available for even the smallest plants that slaughter calves and sheep make the necessary change readily attainable. Legislation is needed to require humane restraint devices to be used for these animals.

Connecticut was the first state to include the holding pen in a humane slaughter law. Although restraining devices are not compulsory, Connecticut should nonetheless be credited with making positive reference to them as follows:

Section 22-272a. *Approved methods of slaughter.* . . (b) (2) restraint of the animal by means of a pen approved by the commissioner which firmly encloses the animal and, with a minimum of excitement and discomfort, places the animal in such a position that a cutting stroke may be administered quickly and efficiently; (3) restraint of the animal by means of a body harness approved by the commissioner which lifts, supports and cradles the animal and, with a minimum of excitement and discomfort, places it in such a position that a cutting stroke may be administered quickly and efficiently; and (4) restraint of the animal by any other means approved by the commissioner which causes the animal no unreasonable or unnecessary pain and which, with a minimum of excitement and discomfort, places the animal in such a position that a cutting stroke may be administered quickly and efficiently.

Clearly, Connecticut tried to outlaw the shackling and hoisting of conscious animals by providing adequate substitutes; but evidently, in order to pass its humane slaughter bill, a final exemption for the handling and preparation of animals for ritual slaughter had to be included.

Pennsylvania's humane slaughter law, passed in 1965, requires humane preslaughter handling of animals, whether for conventional or ritual slaughter. Sections 3-451.52 and 3-451.53 follow:

Section 3-451.52. No slaughterer, packer or stockyard operator

shall shackle, hoist or otherwise bring livestock into position for slaughter by any method other than a humane method. No slaughterer, packer or stockyard operator shall bleed or slaughter any livestock except by a humane method: provided, nevertheless, that this section shall not apply to the operator of a commercial establishment with respect to the positioning of no more than twenty conscious beef animals per week for ritual slaughter as such term is defined in subclause (II) of clause (6) of section 1 of this act; and with respect to calves and sheep being positioned for ritual slaughter as therein defined, until one year after the Secretary of Agriculture finds that there is available at reasonable cost a ritually acceptable, practicable and humane method of handling or otherwise preparing conscious calves and sheep for slaughter. The findings of the Secretary of Agriculture in the application of subclause (II) of clause (6) of section 1 shall be subject to review in the manner provided by the Administrative Agency Law.

Section 3-451.53. Nothing in this act shall be construed to prohibit, abridge or in any way hinder the religious freedom of any person or group. Nothing in this act shall be construed to apply to a farmer while slaughtering his own livestock.

Following its exemption for the handling of animals for ritual slaughter, the Indiana law contains the following proviso: "Provided, That livestock shall be slaughtered immediately following total suspension from the floor."

Holding pens should be specified in future state humane slaughter laws and amendments to existing state laws.

Vermont's humane slaughter law contains the following clarifying provision: "No slaughterer, packer or stockyard operator may bleed or slaughter livestock except by a humane method" (Section 6-3132). "Humane method" is defined in Section 6-3131 as:

(1) a method whereby the animal is rendered insensible to pain by mechanical, electrical, chemical or other means that is rapid and effective before being shackled, hoisted, thrown, cast or cut; (2) a method in accordance with ritual requirements of the Jewish faith or any other religious faith whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

The use of "a manually operated hammer, sledge, poleax or similar instrument" is specifically prohibited.

ANALYSIS OF STATE LAWS

Twenty-six states have enacted Humane Slaughter Laws:

<i>State</i>	<i>Section No.</i>
Arizona	24-661
California	Food & Agric. Code 19501, 19503
Colorado	35-58-105—35-58-109
Connecticut	22-272a

Florida	828.22—828.25
Georgia	40-10-1-.13
Illinois	8-229.51—8-229.56
Indiana	16-6-5-8, 16-6-5-17
Iowa	189A.19
Kansas	47-1491—1405
Maryland	27-333A-D
Massachusetts	94-139B-G
Michigan	287.551—287.556
Minnesota	31.59, 31.591, 31.592
New Hampshire	575-A:1—A-4
Ohio	945.01-945.03
Oklahoma	2E6-183 B
Oregon	603.065
Pennsylvania	Agric. Code 3-451.51—3-451.55
Rhode Island	4-17-2—4-17-7
South Dakota	39-5-23.1—39-5-23.2
Utah	4-32-3(31), 4-32-6
Vermont	6-3131—6-3134
Washington	16.50.100—16.50.170, 16.50.900
West Virginia	19-2E-1—19-2E-7
Wisconsin	95.80

Arizona, California, New Hampshire, Ohio, Oklahoma, South Dakota, Utah, West Virginia, and Wisconsin do not specifically prohibit the use of the manually operated sledgehammer. The term "humane method" is frequently defined, as in New Hampshire's law, as "any method of slaughtering livestock which normally causes animals to be rendered insensible to pain by a single blow or shot of a mechanical instrument or by electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut" (Section 575-A:1 (III9a)).

A law is stronger if a specific individual or agency is charged with its enforcement.

The head of the State Department of Agriculture or the Board of Agriculture is designated in the following 15 states:

California	Michigan	Oregon	Washington
Colorado	Minnesota	Pennsylvania	West Virginia
Illinois	New Hampshire	Utah	Wisconsin
Iowa	Oklahoma	Vermont	

Those responsible in the following six states are:

Commissioner of Consumer Protection: Connecticut
 Commissioner of Public Health: Massachusetts
 Department of Agriculture and Consumer Services: Florida
 Director of Environmental Management: Rhode Island
 Livestock Sanitary Board: Arizona and South Dakota

Georgia, Kansas, Maryland, and Ohio have not charged an official or department with the enforcement of their law—a serious weakness which should be corrected.

The penalties imposed for breaking the law indicate to some degree the relative importance of the legislation in the minds of the lawmakers. The following chart demonstrates the value of humane slaughter to state legislators:

<i>State</i>	<i>Penalty (Section No(s).)</i>
Arizona	up to 6 months and/or up to \$200 (Sections 24-663; 13-101)
California	up to 1 year in county jail and/or up to \$1,000 (Food & Agric. Code Section 19440)
Colorado	up to 6 months and/or up to \$500 (Section 35-58-110)
Connecticut	up to 90 days and/or up to \$500 (Section 22-272a)
Florida ³	up to \$500 (Sections 828.26; 775.083)
Georgia	No penalty specified
Illinois	up to \$500 (Section 38-1005-9-1)
Indiana	180 days and/or up to \$1,000 (Sections 16-6-5-17; 35-50-3-3)
Iowa	30 days and/or up to \$100 (Section 189A.17; 903.1)
Kansas	up to 1 month and/or up to \$500 (Section 47-1405)
Maryland	up to 6 months and/or up to \$3,000 (Section 4-130)
Massachusetts	up to 60 days and/or up to \$500 (Section 94-139F)
Michigan	up to 90 days and/or up to \$100 (Sections 287.556; 750.504)
Minnesota	up to 90 days and/or up to \$700 (Sections 31.592; 609.03)
New Hampshire	up to 1 year and/or up to \$1,000 (Section 575-A:3)
Ohio	up to \$100 (Section 945.99)
Oklahoma	up to 1 year and/or \$1,000 (C.1T.2 6-207)
Oregon	up to 6 months and/or up to \$1,000 (Sections 603.992; 161.615; 161.635)
Pennsylvania	up to \$100 (Agric. Code Section 3-451.55)
Rhode Island	up to 1 year and/or up to \$500 (Section 4-17-6)

<i>State</i>	<i>Penalty (Section No(s).)</i>
South Dakota ⁴	refusal or suspension of inspection of slaughtering establishments (Section 39-5-23.1)
Utah	up to 6 months (Class B misdemeanor) or up to 90 days (Class C misdemeanor) and/or up to \$299 (Sections 4-32-19; 76-3-204; 76-3-301)
Vermont ⁵	not less than \$50 nor more than \$100 (Section 6-3134)
Washington	up to 90 days and/or up to \$250 (Section 16.50.170)
West Virginia	not less than \$100 nor more than \$500 (Section 19-2E-6)
Wisconsin	up to \$100 (Section 95.80)

The Council of State Governments, Iron Works Pike, P. O. Box 11910, Lexington, Kentucky, 40578, developed model legislation which can be used by state governments planning to enact effective legislation. The model follows:

AN ACT TO PROVIDE FOR THE HUMANE SLAUGHTER OF LIVESTOCK

Section 1. The [legislature of this state] finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economy in slaughtering operations; and produces other benefits for producers, processors and consumers which tend to expedite the orderly flow of livestock and their products.

It is therefore declared to be the policy of the state of [] to require that the slaughter of all livestock and the handling of livestock, in connection with slaughter, shall be carried out only by humane methods and to provide that methods of slaughter shall conform generally to those employed in other states where humane slaughter is required by law and to those authorized by the Federal Humane Slaughter Act of 1958 and the Humane Methods of Slaughter Act of 1978, and regulations thereunder.

Section 2. As used in this act:

(a) "Commissioner" means the [head of the appropriate state agency].

(b) "Person" means any individual, partnership, corporation, or association doing business in this state, in whole or in part.

(c) "Slaughterer" means any person regularly engaged in the commercial slaughtering of livestock.

(d) "Livestock" means cattle, calves, sheep, swine, horses, mules, goats and any other animal which can or may be used in and for the preparation of meat or meat products.

(e) "Packer" means any person engaged in the business of slaughtering, or of manufacturing or preparing meat or meat products for sale, either by such person or others; or of manufacturing or preparing livestock products for sale by such person or others.

(f) "Stockyard" means any place, establishment or facility commonly known as a stockyard, conducted or operated for compensation or profit as a public market, consisting of pens, or other enclosures, and their appurtenances, for the handling, keeping and holding of livestock for the purpose of sale or shipment.

(g) "Humane method" means either: (1) a method whereby the animal is rendered insensible to pain by mechanical, electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast or cut; or (2) a method in accordance with ritual requirements of the Jewish faith or any other religious faith whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

Section 3. No slaughterer, packer or stockyard operator shall shackle, hoist, or otherwise bring livestock into position for slaughter, by any method which shall cause injury or pain.

Section 4. No slaughterer, packer or stockyard operator shall bleed or slaughter any livestock except by a humane method: *Provided*, however, that the Commissioner may, by administrative order, exempt from compliance with this act, for a period of not to exceed one year after the effective date of this act, any slaughterer, packer or stockyard operator if he finds that an earlier compliance would cause such person an undue hardship.

Section 5. The Commissioner shall administer the provisions of this act. He shall promulgate and may from time to time revise rules and regulations which shall conform substantially to the rules and regulations promulgated by the Secretary of Agriculture of the United States pursuant to the Federal Humane Slaughter Act of 1958, Public Law 85-765, 72 Stat. 862 (and any amendments thereto): *Provided*, however, that the use of a manually operated hammer, sledge or poleax is declared to be an inhumane method of slaughter within the meaning of this act.

Section 6. Any person who violates any provision of this act shall, upon conviction thereof, be punished by a fine of not more than [] dollars, or by imprisonment for not more than [] days, or both.

Section 7. [Insert effective date.]

Since restraining devices and holding pens are available, all state laws should include them for preslaughter handling of kosher-slaughtered animals as specified in Section 3 of the Model State Law. There should be a humane slaughter law in every state of the Union.

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1. The Hormel Company observed that before CO₂ anesthetization was installed, there was a greater turnover of personnel at the killing point than at any other part of the packing house. It was the most unpopular and dangerous job before humane methods were adopted.
 2. Produced by Arthur Redman of Seattle, the film gave shocking evidence of the cruelty of the meat packers' procedures.
 3. In Florida, the penalty imposed upon a noncomplier who sells to a public agency is a misdemeanor of the second degree, punishable by a fine of up to \$500; the penalty imposed for failure to comply within one year after the first inspection is a fine of up to \$500 for every day of continuance after a week's warning notice (Sections 828.26; 775.083).
 4. If the Secretary of the Livestock Sanitary Board determines noncompliance with the humane methods of slaughtering prescribed by Section 39-5-23.2.
 5. In addition, the Commissioner may seek an injunction against a slaughterer, packer or stockyard operator who engages in practices which are prohibited by Section 3132 of this title, by a petition to the court of chancery for the county in which such slaughterer, packer or stockyard operator resides or where such violations occur.

Chapter IV

LABORATORY ANIMAL WELFARE

by Christine Stevens

Not until the end of 1985 when Senator Robert Dole attached his bill, "Improved Standards for Laboratory Animals," to the Farm Bill by unanimous consent of Senate and House, did the United States achieve legislation comparable to that already in effect in 14 western European countries¹ for protection of animals used by scientific institutions. The Farm Bill was signed by President Reagan two days before Christmas, making the Improved Standards provisions effective December 23, 1986, a year from the date of enactment.²

More than twenty years of intensive work was required to reach the point at which the American Physiological Society, major experimentalists, withdrew its opposition to legislation sought by animal protective organizations. The Association of Professors of Medicine, too, accepted the bill's provisions in the closing months of the struggle for its passage.

Efforts which began in 1880 to regulate animal experimentation in the United States are described in detail from 1945 onward.

NINETEENTH CENTURY LABORATORY ANIMAL PROTECTIVE PROPOSALS REBUFFED

In 1880, a bill to regulate animal experimentation in the District of Columbia was introduced in Congress. Its provisions were roughly similar to the British Cruelty to Animals Act of 1876 which provided substantial protection for experimental animals for more than a century with the approval of the British scientific community.³ But American scientists who were asked for their opinions opposed and easily defeated this initial effort.

Between 1828 and 1898, nearly every state and territory in the Union passed an anti-cruelty statute.⁴ Fourteen of these laws exempted animal experiments. Even the crusading Henry Bergh, an outspoken anti-vivisectionist, agreed to the exemption of experimental animals when he revised the New York anti-cruelty law in 1867.

No prosecutions for cruelty to laboratory animals are known during this period in states without such exemptions. Not until the latter half of the twentieth century (Massachusetts in 1958 and Maryland in 1982) were anti-cruelty laws invoked on behalf of laboratory animals. In the first case, the Massachusetts SPCA successfully prosecuted a research scientist and animal caretaker for cruelty in maintaining and transporting post-surgical dogs outside the institution (the Overholt Clinic).

In Maryland, Dr. Edward Taub was found guilty of 17 counts of cruelty to experimental monkeys at the Institute for Behavioral Research. On appeal, the judgment was reversed on grounds that the Maryland law was superseded by the federal Animal Welfare Act.

LEGISLATIVE ACTIVITY IN THE POST-SECOND WORLD WAR PERIOD

Animal Seizure

Virtually all bills relating to laboratory animals from 1945 to 1960 were inspired by the National Society for Medical Research (NSMR) or one of its affiliates. Founded in Chicago in 1945 by Dr. A. J. Carlson, Dr. Andrew C. Ivy, and Dr. George Wakerlin, the NSMR devoted most of its efforts to enactment of state laws requiring both humane society shelters and public pounds to surrender dogs and cats on request from scientific institutions for use in any type of experiments or tests, no matter how painful and prolonged.

The first forced surrender law was passed in Minnesota in 1948. Humane societies were unaware that the bill had even been introduced before it had gone through both Houses and been signed by the Governor. This law required release of impounded animals from humane society shelters that receive funds from taxes, as well as from municipal pounds. In 1949 in Wisconsin, an even more severe seizure law was passed, requiring any stray animal to be made available on request to a scientific institution. Thus, shelters operated wholly by charitable funds were also compelled to supply animals for experiments, regardless of the degree and duration of pain and suffering inflicted. An attempt was made to pass similar legislation in Illinois, but here it failed, and the individual communities were left in control of local policies with respect to disposition of stray dogs and cats.

Procurement laws passed in New York, South Dakota, Oklahoma, Connecticut, Ohio, and Iowa did not attempt to enact such far-reaching legislation.

Robert Sellar, the President of the American Humane Association (AHA), the national federation of humane societies, saw the grave danger to the movement, whose organizational structure in the late 1940's was especially susceptible to demoralization through animal seizure legislation. Virtually all the well-established humane societies centered their work around shelters for lost or unwanted dogs and cats. If forced to surrender animals for painful experiments, the entire structure would lose its moral basis as a sanctuary for animals where they would be safe from inflicted suffering. These were dark days for organized animal protection.

Mr. Sellar sought to reason with the National Society for Medical Research in hopes of finding a solution to the demand for research dogs without undermining the morals of the humane movement. A small AHA group met with an NSMR group with the understanding that the preliminary talk would not be publicized. But Mr. Ralph Rohweder, the Executive Secretary of the NSMR, immediately sent out an announcement calculated to inflame anti-vivisection societies and anti-vivisectionist members of the American Humane Association. Mr. Sellar lacked the power to resolve the crisis manufactured by the NSMR, and henceforth, battles raged in state after state to pass legislation compelling humane societies to surrender dogs and cats to the laboratories on demand and without controls on pain infliction.

With the death of Robert Sellar came the end of real efforts to face the problem and solve it. The influence of a coterie of professional humanitarians—the paid employees of large societies who had a vested interest in the continuance

of their jobs—was not conducive to firm resolve. They felt that they must avoid offending either anti-vivisectionists, from whom their organizations might receive large gifts and bequests, or scientific and medical groups, whose powerful influence they feared. Thus it was that the American Humane Association, normally eager for contributions, declined an offered gift of \$10,000 to study and prepare a concerted plan for obtaining humane treatment of research animals and a solution to the problem of supply to laboratories.

Before his death, Mr. Sellar had appointed a new director of the *National Humane Review*, Fred Myers, a newspaper man who was a reformer and an effective writer. He attacked the NSMR for its policies of indiscriminate procurement and use of animals. So telling were his arguments that he was forbidden by AHA management, which was heavily weighted against any energetic action, to use the words "National Society for Medical Research" in any article published in the *National Humane Review*. Unwilling to submit to such an arbitrary stifling of truthful reporting, Mr. Myers resigned, together with two of the other three major staff members: Helen Jones, Director of Education, and Larry Andrews, Director of Field Services. All were appointees of Robert Sellar, who had been replaced after his death by Mel Morse.⁵

The National Humane Society was founded by the dissident trio. The American Humane Association promptly sued them to force them to change the society's name, which, it claimed, was too similar to *National Humane Review*. The result was the renaming of the new organization as the Humane Society of the United States.

Nor was this the only legal action taken in the reform effort. The first attempt to change the passive attitude of the AHA came at the election of directors at the 1954 annual meeting. The three reform candidates, Professor Roland Smith of the Department of English, University of Illinois, Miss J. M. Perry, an attorney from South Carolina, and Mr. Raymond Naramore, a high school teacher who became the director of the Rochester and Monroe County Humane Society, were promptly elected by a delighted membership that had never before exercised its prerogatives. The controlling group of AHA directors was dismayed. The following year they fought back, first naming a meeting point in the Northwest where the expense of travel would discourage the bulk of the membership, concentrated in the East, from attending. Forced by injunction to name a more central location for the meeting, they resorted to bringing in large numbers of persons never before associated with animal welfare work who voted as a bloc on signal. The "in" group won and, not long after, Miss Perry died, and Professor Smith resigned. Mr. Naramore, limited to work on humane education for schools, died a few years later.

Due to the failure of these and other attempts to bring purpose and life into the AHA establishment at that time, several new organizations were formed. The Animal Welfare Institute was founded in 1951, its aim the advancement of the welfare of all animals, with special emphasis on the research animals so long neglected by humane organizations. Its charter was drawn by Herbert Brownell, the distinguished New York lawyer who served as Attorney General under President Eisenhower.

The Humane Society of the United States was founded in 1954; and in 1959 one of its founders, Helen Jones, left the parent body to found the National

Catholic Society for Animal Welfare, later renamed the International Society for Animal Rights.

In 1952, after years of controversy, the Hatch-Metcalf Act was passed. The Act amended an existing New York laboratory animal care statute into a procurement law, requiring all dog pounds and all humane societies receiving public funds to surrender animals to scientific institutions. The New York State Humane Association actively fought enactment of the law; but its biggest, oldest member organization, the American Society for the Prevention of Cruelty to Animals (ASPCA), whose board was dominated at that time by research interests, refused to take a position. Its president was Samuel Milbank of the Milbank Foundation. The New York State Society for Medical Research,⁶ proponents of the law, dismissed all the other organizations as anti-vivisection groups, thus ensuring passage of the law.

Both the Erie County Humane Society and the Humane Society of Rochester and Monroe County immediately gave up their pound contracts so that it would not be necessary for them to release animals from their shelters to laboratories. Only two organizations, the ASPCA and the Syracuse SPCA, continued to accept tax funds and were thus required to send dogs and cats to scientific institutions. Between 1966 and 1974, the Syracuse SPCA delivered 14,000 dogs and cats to Bristol-Myers, a company with annual sales of more than a billion dollars.

Such was the power of the biomedical establishment at the time that the ASPCA even went so far as to oppose an amendment offered just before the Hatch-Metcalf Act was passed which would have authorized a representative of the New York State Humane Association to accompany Health Department inspectors on the rounds of laboratory animal rooms. The ASPCA was a member of the New York State Humane Association, but it joined the New York State Society for Medical Research in fighting the humane inspection, which, it was claimed, "would emasculate the bill." The amendment was defeated, ensuring that inspection under the Hatch-Metcalf Act was a whitewashing operation. A few examples:

- 1953: A Health Department inspector took AWI representatives through Cornell Medical School explaining how excellent the care for the animals was while passing by a dog whose incision had opened, allowing his internal organs to fall onto the floor of the cage.
- 1960: AWI was called to inspect the animal quarters at St. Vincent's Hospital where gross filth and massive infestation of ticks, roaches, and other insects were found.
- 1963: AWI was called by a secretary in New York University Dental School about epizootics which were running through the animal colonies due to the fact that wild rodents were fouling the cages, and cleaning was put off for so long that there was scarcely a clear spot to set foot in the dog runway.

All these institutions received dogs from the ASPCA and were inspected and certified by the Health Department and also by ASPCA employees who visited at the invitation of the laboratories. When the federal Laboratory Animal

Welfare Act was passed in 1966, the ASPCA ended even the gesture of sending inspectors to laboratories but continued to supply them with dogs and cats until 1971.

Repeal of Animal Seizure Laws

In 1976, a reform movement swept the ASPCA, permanently ending the supply of dogs and cats from its shelters to laboratories. In 1977, the New York Assembly voted 126-14 to repeal the Hatch-Metcalf Act. Connecticut, Massachusetts, Ohio and West Virginia also repealed similar acts.

This type of legislation has proved itself a failure. The claims issued for its enactment, to the effect that dog dealing and stealing would cease if animals were available to laboratories from humane societies and pounds, were proven false in the most dramatic way by the very case which set in motion the enactment of the Laboratory Animal Welfare Act. A dog was bought by a New York hospital from a Pennsylvania dog dealer, although the hospital was entitled to free dogs from the ASPCA. In other states, too, which passed animal seizure legislation, laboratories often have not taken advantage of the law, preferring to buy from dealers.

Thirteen states *prohibit* the release of impounded animals to research facilities: Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia. Of these, Massachusetts is the only state which specifically prohibits the sale of pound animals brought in from other states as well: "No person, institution, animal dealer, or their authorized agent shall transport . . . any animal obtained from any municipal or public pound, public agency, or dog officer . . . into the commonwealth for purposes of research, experimentation, testing, instruction or demonstration" (Ch. 140, Sec. 174D, 1983).

Release of impounded animals for research purposes is *required* in the District of Columbia, Iowa, Minnesota, Oklahoma (by pounds only; shelters *may* release animals for research), South Dakota, and Utah.

Release of impounded animals for research use is *allowed* in Arizona, California, Michigan, North Carolina, Ohio, Tennessee, Washington, and Wisconsin.

Recent efforts to repeal Minnesota's law requiring release of animals from pounds to research facilities have been unsuccessful. However, a law was enacted in 1987 which provides for inspections of animal dealers by the Minnesota Board of Animal Health as well as the U. S. Department of Agriculture, requires dealers to post signs informing the public that they sell animals to laboratories, and opens dealers' premises to the public to enable pet owners to search for lost or stolen pets. A fine of \$1,000 will be imposed on any individual selling a dog or cat to a research facility without the permission of the owner.

The State of Washington enacted a law in 1989 to prevent pet theft. Research animal dealers who sell stolen dogs or cats to scientific institutions or who pose as adopters of animals responding to "free to good home" classified ads may now be punished by a fine of \$10,000 and 5 years in jail. Research facilities are required to maintain a file on each dog and cat, including certification of the animal's origin, a photograph, and a physical description of the animal, available for public inspection.

In 1983, Iowa passed a law authorizing suspension or revocation of the license of an animal shelter, auction, dealer, kennel, or pound for cruelty to animals.

Massachusetts, in 1985, authorized the Massachusetts SPCA and the Animal Rescue League of Boston to inspect all animal dealers licensed by the U.S. Department of Agriculture, thus complementing their previously enacted law allowing for inspection of research facilities.

In 1989, Kansas enacted legislation requiring annual licensing of all research facilities, dealers, pounds, pet shops and kennels. The Commissioner of Livestock has extensive authority to inspect facilities and to deny, suspend or revoke licenses. A similar law was passed in Iowa.

REGULATORY PROPOSALS STALLED IN COMMITTEE BY MEDICAL LOBBYISTS

Between the years 1960 and 1966, a great deal of effort was devoted to unsuccessful attempts to pass legislation based on the principles of the British Act of 1876. But public interest in the treatment of laboratory animals was growing, and the National Institutes of Health (NIH) decided to contract for a study by Dr. David N. Ruth and Mr. Robert W. Cox on "The Care and Management of Laboratory Animals Used in the Programs of the Department of Health, Education and Welfare" (DHEW). Submissions were widely solicited, and both the Animal Welfare Institute and Society for Animal Protective Legislation presented documentation on visits to laboratories. AWI's "Critical Review of Conditions in Institutions Receiving Funds Under DHEW Auspices" documented the following:

1. Cages too small for animals to stand or lie in normal position.
2. Failure to administer pain-relieving drugs after surgery.
3. Failure to destroy suffering, moribund animals.
4. Failure to supervise animals after surgery.
5. Failure to provide a comfortable resting place for animals.
6. Repeated use of the same animal for painful procedures.
7. Failure to provide water.
8. Failure to identify animals.
9. Immobilization of unanesthetized animals.
10. Filth.

A 210-page volume was produced, but NIH, dismayed by the extensive evidence of mistreatment and neglect of laboratory animals and the obvious need for regulatory legislation revealed by the study, quickly withdrew it. Hundreds of copies were secreted in a storeroom. Senator Clark, however, demanded and got a copy.

The first bill ever introduced in the United States Congress to regulate animal experimentation was sponsored by Senators John Sherman Cooper, Mike

Mansfield, E. L. Bartlett, Robert C. Byrd, Frank Church, Estes Kefauver, Wayne Morse, William Proxmire, Jennings Randolph, Ernest Gruening, Pat McNamara, Harrison Williams, and Joseph S. Clark. The bill was written by Abe Fortas and introduced at the request of the Society for Animal Protective Legislation. As soon as this bill was introduced, the National Anti-Vivisection Society and the National Society for Medical Research, normally at each other's throats, found themselves in agreement: there must be no regulation of animal experimentation. When hearings were held two years later in the House of Representatives, Major Charles Hume, founder of the Universities Federation for Animal Welfare of Great Britain, emphasized the fact that, poles apart though they were, these two groups actually corresponded with a view to helping each other defeat regulatory legislation.

Opponents thought they had buried regulatory legislation, and in that Committee they had. But they reckoned without the disappearance of a Dalmatian dog named Pepper and the response of the House Agriculture Committee.

The Humane Society of the United States, under the direction of Fred Myers, insisted that the British Act was not sufficiently strong and gave its support to the Moulder bill. The American Humane Association remained silent and, when pressed, said it was studying the matter. When Congressman Kenneth Roberts held two days of hearings on the Griffiths and Moulder bills, the AHA sent no one to testify.⁷

Medical research groups and anti-vivisection groups opposed the bills; the National Catholic Society for Animal Welfare said it would support the Moulder bill if it were amended to eliminate all pain infliction. Significant statements were made by scientists and medical men who supported the Griffiths bill (identical to the Clark-Neuberger bill in the Senate) based on the principles of the British Act, and also by knowledgeable Britons who had worked under the Act and could testify from firsthand experience as to its workability and effectiveness in preventing animal suffering without hampering research.

The American Medical Association felt differently, however, and editorialized about what it termed "humaniacs." An objective and authoritative voice was heard from England when the Report of the Departmental Committee on Experiments on Animals was presented to Parliament by the Secretary of State for the Home Department, April 1965.

The Committee, under the chairmanship of Sir Sydney Littlewood, held hearings over a two-year period to review the working of the British Act, giving every individual and group who desired to be heard an opportunity. The resulting "Littlewood Report," a remarkable testimony to fairness and good judgment, surveying every aspect of animal experimentation, of the treatment of the animals, and of procurement, reported the views of scientists, of the public, and of groups as diverse as the Universities Federation for Animal Welfare,⁸ whose scientific approach is well known, and anti-vivisection organizations seeking abolition of all experimentation on animals. The most widely quoted paragraph in the 255-page Report is the first of the General Findings: "Animal experiment is a complex and highly specialised subject. It is also a moral and social problem of the first magnitude and one that does not exclusively concern the expert."

The "Littlewood Report" was referred to repeatedly by two distinguished

medical men who flew to the United States to testify at hearings held September 30, 1965, before the House Interstate and Foreign Commerce Committee: Dr. Lawrence Abel, former Vice President of the Royal College of Surgeons of England and Consulting Surgeon to the Institute of Cancer Research, Royal Cancer Hospital, and Sir Graham Wilson, former Director of the Public Health Service.

Speaking of the inspectorate under the British Act, Sir Graham said:

The Act is administered by the Home Office and is enforced by specially appointed inspectors possessing a medical or veterinary qualification. Their main purpose is regulatory and educational rather than disciplinary. In their visits to the laboratories they satisfy themselves about the suitability of the conditions under which the animals are kept and of the general well-being of the animals themselves; they may assure themselves that the license holder is fully aware of what he is permitted and not permitted to do; and they make useful suggestions for overcoming difficulties of one sort or another.

Dr. Abel, speaking of the three principles—licensing, inspection, and the pain rule—said:

The third British Principle is the Pain Rule. This sets the limit to the amount of suffering which may be inflicted. We do not commit the atrocities which are reported from time to time in some other countries. We do not allow the extravagant cruelty committed by some investigators of stress and shock. We have proved that the desired results can be obtained by less inhumane methods. We are convinced that the freedom of all and sundry to use animals indiscriminately would not improve the value of research.

The hearings of the Health Subcommittee of the House Interstate and Foreign Commerce Committee at which Sir Graham and Dr. Abel testified were never published.⁹ Scheduled as two-day hearings, they were abruptly canceled the morning of the second day and never rescheduled by Chairman Paul Rogers, now a consultant for the National Association for Biomedical Research (NABR). The biomedical establishment apparently considered it dangerous to expose the public to facts about successful regulation of animal experiments.

RESNICK BILL BYPASSES THE HEALTH COMMITTEES

On July 3, 1965, Fay Brisk, a long-term campaigner for reform of the big Pennsylvania dog dealers, called the Animal Welfare Institute for help to try to get Pepper back to her owners, the Lakavage family. Mr. Lakavage, in the hospital with a heart attack, saw Pepper's photograph together with seventeen other dogs and two goats that had been temporarily unloaded from a Pennsylvania dog dealer's overcrowded truck. Mrs. Lakavage and the three young Lakavages set off in pursuit of Pepper, who, allegedly, had been taken to a big New York State dog dealer, Nersesian. When the exhausted family arrived, Nersesian refused them entry.

Senator Clark of Pennsylvania, a well-established fighter for animal protection and chief sponsor of pending legislation to require humane treatment of experimental animals, was out of town, but Sara Ehrmann, his Legislative Assis-

tant, responded to the AWI call for help by telephoning Congressman Resnick's office in the District where Nersesian's dog farm was located. Even Congressional intercession failed, however; and Resnick, angered by Nersesian's high-handed refusal to admit the family to find their missing pet, decided he would introduce a bill to prevent such wrongs.

Meantime, pressure by the State Police brought an admission from the Pennsylvania dog dealer that he had taken his load not to Nersesian, as he first had said, but directly to Montefiore Hospital in New York. Immediately, Fay Brisk telephoned the hospital, could hear the rattling of the dog tags at the other end of the phone, then the news: the dog had died on the operating table the day before and already had been incinerated. The dog dealer insisted the dog was not Pepper—the evidence was incinerated—but the call for female Dalmatians, put out by the hospital to dealers rather than to breeders, had led to introduction of the Resnick bill on July 9. The Resnick bill, written by attorneys of the U.S. Department of Agriculture, required that dealers in dogs and cats and the laboratories that purchased them be licensed, inspected, and adhere to humane standards set by the Secretary of Agriculture. A companion bill was introduced in the Senate by Senator Warren G. Magnuson, Chairman of the Senate Commerce Committee, and Senator Clark, who came to the Senate floor at the same moment to introduce identical bills. In a brief colloquy they agreed to co-sponsor, and Senator Daniel Brewster of Maryland joined them.

On September 2, Congressman W. R. Poage of Texas, Chairman of the Livestock Subcommittee of the House Agriculture Committee, held hearings on the Resnick bill. He was the first American legislator to hold hearings on laboratory animal legislation with a view to enacting it. He had won passage of the Humane Slaughter Act in 1958, and was destined to win again for laboratory animals. Not easily, however. The bill was immediately attacked as anti-vivisectionist by the National Society for Medical Research, which described it as a "pincers movement" to cut off the supply of animals for laboratories. Anti-vivisectionist groups, however, took but little interest in the matter. The demand for action came from the general public, outraged by the article in *Life* magazine showing Stan Wayman's photographs of the shocking abuse of dogs in the dealers' hands.

The *Life* article was set in motion by Henry Luce after he looked over a collection of photographs supplied by the Animal Welfare Institute, many of them taken by photographers accompanying AWI Laboratory Animal Consultant, Dorothy Dyce. Under the supervision of *Life's* Nature Editor, Pat Hunt, the article was completed and published February 4, 1966. More mail was received by *Life* on this article than on any other in the history of the magazine, and Congress received more mail on the pending bills than on civil rights or Vietnam.

In the face of such demand, the opponents began to modify their opposition. When Congressman Poage introduced the Committee bill, extending coverage to all vertebrate animals, and Senator Hugh Scott of Pennsylvania introduced an identical bill in the Senate, the opponents concentrated on exempting scientific institutions from the humane standards and on cutting back the number of species covered. The Poage bill came unscathed through the Subcommittee, but the full House Agriculture Committee cut it down to dogs and cats in dealers' premises only. Laboratory interests thus won a temporary victory and, no doubt, believed they could continue to keep the objective veterinary inspec-

tors of the U. S. Department of Agriculture out of scientific institutions.

After the House passed the weakened version of the Poage bill, a Senate Commerce Committee staff draft accomplished a comparable weakening of the bills introduced by Senators Magnuson, Clark, Brewster, and Scott. Again, laboratory interests made a stab at getting themselves exempted, but they had reckoned without Senator Monroney, who, as soon as he read the draft, prepared an amendment restoring coverage of animals inside scientific institutions. Newspapers throughout the country supported the Monroney Amendment in emphatic terms. So hotly debated was the issue that a second set of hearings was scheduled in the Senate Commerce Committee on May 25, 1966.

For six years the National Institutes of Health and its parent Department of Health, Education and Welfare had opposed all moves toward effective legislation for humane treatment of research animals. Suddenly, when it became clear that such opposition could no longer stem the demand for action, NIH asked Senator Lister Hill, Chairman of the Committee on Labor and Public Welfare, to introduce a bill written by NIH itself providing a self-policing system for laboratories. Meanwhile, its representatives urged exemption of laboratories from the straightforward, humane Senate Commerce Committee bill.

Neither the Committee nor the Senate as a whole could be brought to support this maneuver. *The Washington Evening Star* stated editorially:

THE ANIMAL CRUELTY BILLS

Congress at last is headed toward enactment of a law to require humane treatment of animals used in laboratory research and to halt thefts of pets by dealers supplying this market. At the eleventh hour, however, a snag has been encountered in the Senate Commerce Committee. Medical researchers, hostile to government supervision, (but not government grants, it should be added), are attempting a switch play. A bill introduced by Senator Hill of Alabama would head off federal inspection of how laboratories treat animals awaiting experiments. Instead this authority would be given to a private group.

The medical men, in fact have such a group all ready and waiting. Set up last year, it is called the American Association for Accreditation of Laboratory Animal Care. Its members are of the establishment, and are staff members of medical schools and research institutions. And, as the association's brochure suggests, the 'inspections' would be rather friendly affairs.

There would be no surprise audits, such as those routinely carried out now in the banking industry, for example. Instead a visit would be scheduled by 'mutual convenience.' It would not come distressingly often—no more than once every five years. The inspectors, according to the brochure, would charge fees ranging up to \$1,000 for their trouble.

If the laboratories are in fact treating their animals humanely, they should have nothing to fear from a proposal by Senator Magnuson of Washington that such inspections be made by the Department of Agri-

culture after standards have been published. His bill has nothing to do with the anti-vivisectionists; the government would not interfere with any laboratory tests or operations.

Certainly the public should not be deluded into thinking the Hill proposal represents any kind of adequate substitute for impartial inspection of such institutions.

Senator Magnuson had made plain his determination to report a bill out of his Committee. The National Society for Medical Research and National Institutes of Health, therefore, concentrated on trying to get the laboratories exempted from compliance with humane standards set by the United States Department of Agriculture and inspection by its representatives. Glowing references to the American Association for Accreditation of Laboratory Animal Care (AAALAC), for whose existence Dr. Maurice Visscher, President of the NSMR, took credit, were a stock in trade; and at the final Senate Commerce Committee hearings, representatives of the NIH and NSMR strongly supported the NIH bill and opposed the Monroney Amendment. Testimony was limited to medical witnesses at this hearing; and two courageous physicians, who had been associated for years with efforts to obtain humane treatment of laboratory animals, came to Washington to testify for the Monroney Amendment: Dr. Nicholas Gimbel, Chief of Surgery at Metropolitan Hospital and Associate Professor of Surgery at Wayne University Medical School, and Dr. Bennett Derby, Head of Neurology at Veterans Administration Hospital in Manhattan and Assistant Professor of Neurology at New York University Medical School. Dr. Gimbel and Dr. Derby urged the Senate Committee to provide for humane care and housing of animals in research institutions. They emphasized that the Department of Agriculture is the ideal agency to administer such requirements. Dr. Gimbel, who had devoted considerable time to getting better treatment for experimental dogs in different institutions, brought the question down to earth by stating that if he were a dog, he would prefer to have the Department of Agriculture administer the law. He said the "welfare of animals should be the responsibility of a body which is primarily interested in them . . . the Department of Agriculture," and he added: "If the scientists and organizations represented in AAALAC had done their job properly, we would not be holding hearings here today. The time has come to bring in independent auditors." The NIH bill did not come to hearings.

The Senate Commerce Committee bill, under the leadership of Senator Magnuson and Senator Monroney, received unanimous endorsement by the Senate. Eighty-five Senators came to the floor to vote for it, and each of the fifteen who were absent and unable to vote stated in *The Congressional Record* that they would have voted for it had they been present. The bill's sanctions were strengthened at the insistence of the House Conferees. They agreed to accept the Senate amendments restoring humane care and housing of animals inside laboratories and increasing the number of species of animals covered, on condition that the stronger House enforcement clauses be adopted.

Regulations were promulgated by the Secretary of Agriculture February 24, and the law went into effect for animal dealers May 25 and for scientific institutions August 24, 1967.

Congress broadened and strengthened this first federal law to prevent

abuses of test animals in 1970, 1976, and 1985. The 1966 Laboratory Animal Welfare Act (fiercely contested by medical and pharmaceutical interests and the associated industries that sell animals, cages, and equipment to scientific institutions) set humane standards for dogs, cats, primates, rabbits, hamsters, and guinea pigs in animal dealers' premises and in laboratories prior to experimental use of animals. In 1970, the coverage was extended to the entire stay of animals in laboratories, where they must be maintained according to minimum standards set by the Secretary of Agriculture. The veterinary care required includes "appropriate use of anesthetic, analgesic, and tranquilizing drugs." All warm-blooded animals designated by the Secretary are covered, but neither birds, farm animals used in research, nor those species that constitute the large majority of the millions of experimental animals used each year—mice and rats—have yet been designated. Because inadequate appropriations have had to be stretched to cover inspections of thousands of sites in laboratories, licensed animal dealers, licensed exhibitors, registered exhibitors, and carriers under the Act as amended, no Secretary has been willing to include more animals for inspectors to check; however, in 1986 the Animal Legal Defense Fund prepared a brief contending that the Act requires him to do so.

The important requirement for pain-relieving drugs and reporting on their use or lack thereof was added in 1970. Reports by registered scientific institutions on use of animals are filed with the U. S. Department of Agriculture and are available for public scrutiny under the Freedom of Information Act. Many institutions have failed to honor this section of the Act, necessitating additional legislative and enforcement action.

Under the 1976 amendments sponsored by Agriculture Committee Chairman Thomas Foley,¹⁰ research institutions were moved to the same category as exhibitors and dealers with respect to the imposition of fines for violations. Previously, research facilities were subject to a cease and desist order which they would have to violate before a fine could be imposed. The 1976 amendments also include a requirement that agencies of the federal government submit proof that they are in compliance with the standards which private institutions must meet under the eyes of veterinary inspectors of the U. S. Department of Agriculture's Animal and Plant Health Inspection Service. Representative Margaret Heckler¹¹ proposed and was successful in obtaining this essential advance on the floor of the House.

The Animal Welfare Act now constitutes a solid, broad-based structure whose 1976 amendments, sponsored in the Senate by Senator Lowell Weicker, cover transportation of animals for research, exhibition, the pet trade, by common carriers and intermediate handlers. Its anti-dogfighting and cockfighting provisions are detailed in Chapter IX.

The 1970 reporting requirements on painful experiments focused on the responsibility of the institutional veterinarian to prevent suffering through humane experimental design or through use of drugs to relieve pain or anxiety. However, enforcement in this area has been virtually nil. The 1985 amendments, which should have gone into effect December 23, 1986, remain to be tested in practice because of the long delay, caused by anti-animal lobbyists, in the promulgation of final regulations to implement the law.

COMMERCIAL DEALERS AND BREEDERS

The laboratory animal industry, supplying millions of animals to institutions at ever increasing prices, is intensely opposed to regulatory legislation that affects them and their clients. In 1979, it spawned the National Association for Biomedical Research (NABR) and the Foundation for Biomedical Research (FBR) to rival the National Society for Medical Research, which they entirely absorbed and supplanted in a few years. NABR now orchestrates opposition to all laws and regulations for laboratory animal welfare. Formation of the organizations was, according to executive Frankie Trull, conceived in her living room. Henry Foster, the veterinarian who built a two-room rat breeding business into the multimillion dollar international laboratory animal production corporation, Charles River Breeding Laboratories, and his son, an attorney, wrote the necessary legal papers. Ms. Trull, an employee of Charles River, set about lining up support among commercial and academic laboratories.

Meanwhile, Charles River was sold to the big optical company, Bausch and Lomb, netting Dr. Foster about \$38 million personally, according to press reports. The pun-filled, full-page ads offering monkeys, guinea pigs, rabbits, and other animals for sale have become more sober and strait-laced, but the intensive campaign to market the maximum numbers of animals for experimentation continues under the new ownership. Charles River has installations in France, Germany, Japan, and the United Kingdom.

Breeding animals for sale to laboratories is big business, and corporations change hands in transactions based wholly on financial considerations. One of the largest dog breeders, LRE, which houses several thousand dogs on its premises, was recently sold to Hazelton, which conducts toxicity tests on contract for other institutions as well as breeding dogs and other laboratory animals.

ALTERNATIVES TO LABORATORY ANIMALS

As numbers of animals used in experiments and tests grew by the million, a countervailing philosophy was increasingly advocated by animal protective organizations. The first serious contribution to the field was *The Principles of Humane Experimental Technique*, by W. M. S. Russell and R. L. Burch, produced under the aegis of the Universities Federation for Animal Welfare in 1959, with some modest assistance from AWI. This pioneering book established the Three R's—Replacement, Reduction, and Refinement—which are now generally recognized as fundamental elements necessary to prevent large-scale unnecessary suffering by laboratory animals. While Russell and Burch stressed the scientifically feasible, others advocated "Alternatives Now!", claiming that substitutes for animals already existed for all experiments and tests. Bills introduced in Congress reflected different views of the subject, but they made up, if not a critical mass, solid evidence of public concern and hope.

By 1981, seven bills on alternatives and/or regulation of animal experiments were pending in the Subcommittee on Science, Research and Technology of the House Committee on Science and Technology. On October 13 and 14, 1981, Subcommittee Chairman Doug Walgren of Pennsylvania held hearings, which drew unexpectedly wide media attention because Maryland police had removed 17 monkeys just days earlier from a Silver Spring laboratory. There they had been experimented on by Dr. Edward Taub under grants from

the National Institutes of Health. Dr. Taub and an associate were charged with 17 counts of cruelty for failing to supply veterinary care. Alex Pacheco, who had worked at the Institute for Behavioral Research as a volunteer and had alerted police to conditions there, showed horrifying pictures of the monkeys and their quarters at the hearings.

Drafting of a composite bill containing some features from each of the seven pending proposals was undertaken by the Subcommittee staff. Advice was sought from the many organizations which had testified pro- or con- the different bills. On August 4, 1982, Congressman Walgren proposed the new bill, which was approved by his Subcommittee and its parent Committee. The bill was referred to the House Committee on Energy and Commerce, Subcommittee on Health and the Environment, and hearings were held by Chairman Henry Waxman of California on December 9, 1982.

Senator Robert Dole introduced a bill based on the principles developed in the October hearings. Senator John Melcher of Montana, the Congress' only veterinarian, joined him. Together, they appeared at the Waxman hearings and testified for the Walgren bill, an unusual tribute to the importance of the legislation. However, no action was taken before the 97th Congress adjourned.

THE DOLE-BROWN AMENDMENTS

When Senator Dole reintroduced his bill in 1983, he had it redrafted as an amendment to the Animal Welfare Act, thus broadening its coverage to include all registered research facilities (over 1,200) inspected by USDA.

This wise decision encouraged consideration by scientific groups who began a slow move from point-blank opposition to demands for a variety of modifications in the language of the bill. At hearings of the full Senate Agriculture Committee, chaired by Senator Dole July 20, nearly every witness had scientific qualifications. Humane groups were represented by Bennett Derby, M.D., Ph.D., who had appeared at the crucial hearings which led to unanimous Senate passage of the original Act.

Senator Dole's masterful handling of the hearings paved the way for action, but it was not to come in the 98th Congress. Opponents tried a new tack, questioning the need for the Dole bill. The Society for Animal Protective Legislation prepared two thick binders of documentation outlining the urgent need for all the bill's provisions for minimizing pain and distress and strengthening the authority of Agriculture's veterinary inspectors.

Congressman George E. Brown, Jr. of California, well known for his successful sponsorship of the 1978 humane slaughter amendments (see Chapter III), introduced a bill, H.R. 5725, based on the Dole bill. On September 19, 1984, he chaired hearings in his Subcommittee on Departmental Operations, Research and Foreign Agriculture which drew a standing-room-only crowd with long lines waiting outside the hearing room. Interest in the legislation had been heightened by revelations of severe mistreatment of experimental baboons at the University of Pennsylvania Medical School. Sixty hours of self-incriminating videotapes taken by a research team as a record of their experiments showed virtually every rule of aseptic surgery being violated. Injured baboons were painfully dangled and ridiculed by groups of laughing students.

The tapes were stolen by a group known as the Animal Liberation Front and given to People for the Ethical Treatment of Animals. They excerpted 25 minutes from the many hours of footage. It was run repeatedly in a nearby church on the day of the hearings.

Henry Mitchell's column in *The Washington Post* September 21, 1984 notes: "Savagery is very much part of the nature of all humans I have ever known, and that is one reason civilized nations have gone to such efforts to restrain it or redirect it." Citing the evidence and characterizing it as sickening, he wrote: "Legislation is needed, and those who do not wish to concern themselves with what amounts to flamboyant sadism should at least have the grace not to obstruct the long hard thankless labors of those who have not shied from the evidence and who have at last come up with reasonable and moderate legislation." Describing his feelings in watching five minutes of the tapes in St. Mark's Church, he concluded: "I left thinking it probably an esthetic error to vomit in a church."

Documentation of neglect and abuse in laboratories throughout the entire country was derived from official reports of USDA veterinary inspectors obtained under the Freedom of Information Act and presented by the Society for Animal Protective Legislation in the form of a 6'x10' chart. A heartening message of support from Dr. Jean Mayer, President of Tufts University, was delivered by Dr. Frank Loew, Dean of the College of Veterinary Medicine, but most testimony from scientific groups was severely critical. Congressman Brown asked his staff to analyze all the criticisms. His bill did not emerge from the Subcommittee.

Meantime, in the Health and Environment Subcommittee, Congressman Walgren had succeeded in getting some provisions of his bill included in the NIH reauthorization bill which was passed by the Congress but vetoed by President Reagan. In the 99th Congress, the bill, after some modification and entitled the Health Research Extension Act of 1985, was passed again and Congress overrode the President's second veto. The animal welfare provisions are less stringent than the Dole-Brown legislation, and they apply only to NIH grantees; nevertheless, the two were destined to fit together well and reinforce one another in a practical manner.

Senator Dole, elected Majority Leader of the Senate, reintroduced his bill at the same time as Congressman Brown. This time the bills were identical, the heroic work of staffers Sara Rasmussen for Brown and Mark Scanlan for Dole. They produced a final draft still containing every major animal protective provision, phrased in the manner least objectionable to the legion of opponents and unremitting critics.

The New York Times editorialized on July 31, 1985 in support of the Dole-Brown proposals, and in the following months, newspapers in every part of the country followed suit.

The debate on the 1985 Farm Bill was continuing when the Majority Leader brought his bill, Improved Standards for Laboratory Animals, to the Senate floor, October 25. Senator Orrin Hatch of Utah, Chairman of the Committee on Labor and Human Resources, expressed reservations. The bill then went into an intense discussion by the staffs of Senators Dole, Hatch, and Melcher and representatives of the National Association for Biomedical Research (NABR), the

Feed Manufacturers Association, and the Society for Animal Protective Legislation. A bill calling for 16 different changes in Senator Dole's bill had been prepared for Senator Hatch by an NABR attorney. Every point had to be fought through. Senator Dole appeared from time to time to ask what progress was being made. At one point, Senator Melcher took part in the arguments, explaining the reason for his language, "a physical environment adequate to promote the psychological well-being of primates." He had seen laboratory chimpanzee cages which, even though unoccupied at the time, he characterized as "extremely efficient, extremely expensive, and extremely cruel."

A second series of amendments, this time consisting of no less than 32 changes, even including a \$500 reduction in the fine, was proposed. A night meeting in the Dole office was called to resolve the differences. It appeared that although academia was somewhat grudgingly resigned to the legislation, the pharmaceutical industry was not willing to stop fighting. Indeed, it fought to the end. Disagreement about the content continued, and Senator Melcher offered a substitute bill on October 29th. This passed the Senate unanimously.

The House had already passed the Farm Bill without the Dole-Brown amendments. Fortunately, Majority Whip Tom Foley¹⁰ of Washington proved himself a powerful friend of animals during the House-Senate Conference. Congressman Foley, as noted earlier, was the author of the 1976 amendments to the Animal Welfare Act. House Agriculture Committee Chairman Kika de la Garza of Texas gave his blessing to the legislation in Conference. Lobbying to kill the Improved Standards for Laboratory Animals continued to the very last moment.

The Farm Bill, an enormously lengthy piece of legislation, was in Conference for days. The Conferees met in a small room in the Russell Senate Office Building, and dozens of lobbyists from each of the special interests that stood to gain or lose from some part of the complex bill lined the hallway outside the room, waiting for news on decisions of the Conferees as staffers came in and out. At 4:00 p.m. on December 12, it appeared that action on the laboratory animal section was imminent. Weakening amendments were being urged by the National Association for Biomedical Research, and Senator Dole had not yet returned from out of town.

The sight of the Senate Majority Leader striding down the hall reinvigorated the weary Society for Animal Protective Legislation lobbyists waiting for the outcome. "You're next," he said to us. Then he was engulfed by a mass of farm lobbyists. It was nearly eleven that night when we heard the good news from Congressman Foley. The Improved Standards for Laboratory Animals Act had come through the Conference unscathed!

The Conference report was approved by the House on December 16 and two days later by the Senate. The Improved Standards for Laboratory Animals amendments establish an information service in the National Agricultural Library in cooperation with the National Library of Medicine to provide data on alternatives to laboratory animals, help prevent unintended duplication of experiments and tests, and provide information to institutions for instruction of scientists and other personnel in humane practices as required by the new law. Each registered research facility must appoint an Institutional Animal Care and Use Committee, including a veterinarian and a person not affiliated with the institution, to represent the general community interests in the proper care and

treatment of animals. The committee must inspect the animal laboratories twice a year and report deficiencies to the institution for correction. If not corrected promptly, the U. S. Department of Agriculture must be notified for enforcement action, and any funding agency involved informed for a decision on whether the grant should be suspended or revoked.

Investigators are required to consider alternatives and to consult with a veterinarian before beginning any experiment which could cause pain. They must adhere to standards set by the Secretary of Agriculture for pre- and post-surgical care, use of pain-relieving drugs or euthanasia, against use of paralytics without anesthesia, and unnecessary use of the same animal for more than one major operation. Exceptions to the standards may be made only when specified by a research protocol and an explanation given for any deviation. Fines for violations were raised from \$1,000 to \$2,500, and for violating a cease and desist order, from \$500 to \$1,500. Each animal may count as a violation, as may each day of failure to obey a cease and desist order.

Interest in protection of laboratory animals has grown worldwide, and two countries made significant improvements in their national laws in 1986: the United Kingdom and the Federal Republic of Germany. The full text of these laws appears in the Appendix. Of particular note in the new British Act is recognition of gradations of stress or pain and justification thereof. This begins with the stress caused by putting an animal in a cage and progresses to the point of procedures prohibited because of extreme painfulness.

In issuing project licenses, the British Secretary of State is required to "weigh the likely adverse effects on the animals concerned against the benefit likely to accrue." Both project licenses and individual licenses are mandatory under the new law. As in the 1876 Act, if an inspector considers that an animal is undergoing excessive suffering, he may require it to be immediately killed.

The new German law was introduced by Minister of Agriculture Ignaz Kiechle. It forbids, with provision for special exceptions, the use of animals for tests on weapons, tobacco, washing powders, and cosmetics. Authorizations for experiments are to be supervised by advisory commissioners. Animal protection organizations may nominate up to a third of the commission's members. The law covers all experiments leading to pain or injury of an animal.

APPROPRIATIONS FOR ENFORCEMENT

The struggle for protection of laboratory animals has had to be fought on many fronts. When passed in 1966, an appropriation of \$300,000 was barely achieved. Slowly, annual appropriations were worked up to \$4,865,000 and remained at the same level despite attempts by the Office of Management and Budget to reduce them. In both 1985 and 1986, the Administration recommended that no money whatever be allocated to administer the law.

In 1985 the Congress simply restored the funds, but in 1986, following passage of the Dole-Brown amendments, Congress voted an increase to \$5,878,000, specifying that \$750,000 be used for the information service designated by the new legislation at the National Agricultural Library in cooperation with the National Library of Medicine. The Senate Appropriations Committee report stated:

For enforcement of the Animal Welfare Act the Committee con-

curs with the House in providing \$5,878,000 over the budget request. This is also \$1,902,000 more than the 1986 adjusted level. Included in this appropriation is \$750,000 for creation of an information service at the National Agricultural Library which will include information on available alternatives to the use of live animals in research. The remainder of the increase is for the general expansion of the program.

On the House floor, Congressman Bob Traxler of Michigan said: "We restore funding for the Animal Welfare Act once again, rejecting the notion that enforcement of the act should be turned over to other authorities. That proposal is simply not sensible in today's interstate economy."

In 1987, the Office of Management and Budget again recommended zero funding for the Animal Welfare Act. However, for the first time, the Department of Agriculture protested, and the budget figure emerged as \$4.947 million, a figure from which the \$750,000 appropriation for the information service at the National Agricultural Library had been subtracted and which could not cover the requirement for continued inspection of research facilities until all deficiencies were corrected. Congress appropriated \$6.125 million for Fiscal Year 1987. In 1988 and 1989, the budget figure again was \$4.947 million, but \$6.197 million was appropriated; and the budget request for Fiscal Year 1990 was \$7.567 million. Animal protective organizations and scientific groups requested \$10 million for enforcement of the law, and the budget request for FY 1991 was raised to \$8.688 million. The groups are requesting \$12 million in order to ensure adequate inspection. In 1989 about 25% of dog dealers were never inspected at all. Citizen demand for sufficient funds to enforce the law continues to be urgently necessary.

REGULATIONS AND ENFORCEMENT

In October 1988, a reorganization of the Animal and Plant Health Inspection Service took place. It created a new division, Regulatory Enforcement and Animal Care (REAC). Enforcement of the Animal Welfare Act has been removed from Veterinary Services and placed with REAC. REAC inspectors are assigned on a full-time basis to enforcement of the Act, but their numbers are inadequate to make the frequent inspections necessary to enforce the law. There are only 63 inspectors for the entire United States obligated to inspect 1,296 laboratories; 4,415 dealers; 1,504 exhibitors; 282 intermediate handlers; and 145 carriers. Without substantially increased appropriations, Veterinary Services personnel will have to be called on to help make inspections.

Citizen complaints concerning research facilities, animal dealers, animal auctions, and other entities covered by the Animal Welfare Act, including circuses, zoos, airlines, and the wholesale pet industry, should be directed to the nearest REAC office or to the central office at Hyattsville. For names and phone numbers, see the Appendix. Citizen complaints are important in protecting animals because of REAC's staff limitations. It is the policy of REAC to investigate all complaints.

Having failed to prevent enactment of the Improved Standards for Laboratory Animals amendments by Congress, opponents transferred their efforts to the agencies and succeeded in delaying the regulations which must be promulgated before the legislation can be enforced. Proposed regulations for Parts 1

and 2 were first issued by the Department of Agriculture in March 1987. The National Association for Biomedical Research (NABR) inspired thousands of letters of protest against these well-prepared regulations. The result was that, rather than being made final, they were withdrawn, and two years passed before rewritten regulations for Parts 1 and 2 were repropose and a proposal for Part 3 regulations finally appeared.

An even more intensive effort by NABR and its constituents followed. However, a lawsuit filed by the Animal Legal Defense Fund against the Secretary of Agriculture, the Secretary of Health and Human Services, and the Director of the Office of Management and Budget was viewed favorably by Judge Richey, who heard the case in the U. S. District Court. A timetable was set up with the Justice Department, and on August 31, 1989, final regulations for Parts 1 and 2 were published in the *Federal Register*.

On July 16, 1990, final regulations were published for subparts B and C of Part 3. On August 15, still further revisions of sections A and D were repropose.

Largely unenforceable "performance" standards appeared in this repropose on key provisions mandated by Congress for exercise for laboratory dogs and psychological well-being of primates. As we go to press, strong protests are being leveled by animal protective organizations against interference with the intent of Congress by the Office of Management and Budget, the National Institutes of Health and the National Association for Biomedical Research.

LABORATORY ANIMAL LAWS: IMPORTANT DATES

England

- 1870: Royal Society started establishment of rules for humane experimentation.
- 1876: British Act regulating animal experimentation enacted.
- 1906-1912: Royal Commission to review the 1876 Act consolidated and affirmed it.
- 1925: Founding of Universities Federation for Animal Welfare.
- 1965: "Littlewood Report" completed after a two-year study of the British Act of 1876 by a Parliamentary Committee; approved the Act and made some suggestions for strengthening and improving its implementation.
- 1986: Following years of work by a coalition of the British Veterinary Association, the Committee for Reform of Animal Experimentation, and the Fund for the Replacement of Animals in Medical Experiments, the Animals (Scientific Procedures) Act became law, replacing the 1876 Act.

United States

- 1880: Attempt to pass bill for District of Columbia based on British Act of 1876.
- 1945: Founding of National Society for Medical Research.
- 1947: Passage of Michigan Animal Care Law.

- 1948: First animal seizure law passed in Minnesota.
- 1949: Animal seizure law passed in Wisconsin.
Meeting between National Society for Medical Research and American Humane Association.
- 1951: Founding of the Animal Welfare Institute.
- 1952: Dr. Robert Gesell, Chairman of the Department of Physiology, University of Michigan Medical School, made an unscheduled presentation on humanity versus inhumanity in animal experimentation at the annual meeting of the American Physiological Society.
- 1954: Three reform directors elected by membership of American Humane Association.
- 1955: American Humane Association Board ensured no more outside interference.
- 1958: Massachusetts Society for the Prevention of Cruelty to Animals prosecuted Dr. Panico of Overholt Clinic for cruelty in transporting an experimental dog.
- 1960: Bill modeled on principles of British Act introduced by Senator Cooper and twelve co-sponsors in 86th Congress.
- 1961: Similar bill introduced by Senators Clark and Neuberger and Congresswoman Griffiths in 87th Congress.
More restrictive bill introduced by Congressman Moulder at request of the Humane Society of the United States.
- 1962: Hearings held on both bills in Health Subcommittee of House Interstate and Foreign Commerce Committee.
- 1963: Senator Clark again introduced bill based on British Act with Senators Maurine Neuberger and Stephen Young co-sponsoring in 88th Congress.
Congressman Cleveland sponsored identical bill in the House.
Congressman Paul Rogers introduced a bill at the request of the American Humane Association which was so sharply criticized for weakness by Dr. Eric Hansen, President of the Massachusetts SPCA, that AHA did not ask membership support.
Congressman William Randall introduced a bill similar to Moulder bill at the request of the Humane Society of the United States.
Congressman Edward Roybal introduced a bill at the request of the National Society for Medical Research to provide funds to laboratories.
- 1965: Senator Clark again introduced a bill based on British Act with Senators Stephen Young, Harry Byrd, E. L. Bartlett, and Edmund S. Muskie co-sponsoring in 89th Congress.
Weakened variations of the Moulder and Randall bills introduced by Congressmen Rogers and Pepper and Senator McIntyre, and a similar but not identical bill by Congressman Tupper.

Congressman Roybal again introduced National Society for Medical Research bill.

July 9, 1965: Congressman Resnick introduced bill to license dealers and laboratories. Senator Magnuson and Senator Clark simultaneously went to the Senate floor to introduce the identical bill in the Senate; Senator Brewster joined as co-sponsor.

September 2, 1965: Congressman Poage held hearings on Resnick bill and 20 other similar bills, including one introduced on the day of the hearings by Congressman Ancher Nelsen for the National Society for Medical Research, which omitted all reference to laboratories, and one introduced before the hearings by Congressman Henry Helstoski for the National Catholic Society for Animal Welfare, which cut laboratories out of the bill but required dog dealers to treat dogs as "a responsible and conscientious owner" would care for his "household pet."

September 30, 1965: Health Subcommittee held hearings on Rogers bill, Cleveland bill, and Roybal bill. Canceled second day of hearings after Dr. Shannon, Head of the National Institutes of Health, testified. These hearings were never published.

March 7, 8, 1966: House hearings before Livestock and Feed Grains Subcommittee of the House Agriculture Committee on Poage, Resnick, Helstoski, Nelsen bills, and 30 other bills similar to one of these.

March 8, 1966: Senator Hugh Scott introduced bill identical to Poage bill.

March 25, 1966: Senator Mondale introduced National Society for Medical Research bill.

March 27, 28, 1966: Senate Commerce Committee hearings.

April 14, 1966: Senator Javits introduced New York State Society for Medical Research bill.

April 28, 1966: House of Representatives passed weakened version of Poage bill.

May 10, 1966: National Institutes of Health bill introduced by Senator Hill.

May 18, 1966: Identical National Institutes of Health bill introduced by Congressman John Fogarty.

May 25, 1966: Identical National Institutes of Health bill introduced by Congressman Harley O. Staggers.

Senate Commerce Committee hearings on the Monroney Amendment to restore coverage of laboratories.

June 15, 1966: Bill reported by Senate Commerce Committee including modified Monroney Amendment.

June 22, 1966: 85 to 0 Roll Call Vote in Senate passed bill.

July 26, 1966: Conference Committee reported bill combining strongest provisions of both Senate- and House-passed bills.

August 24, 1966: Bill signed into law by President Johnson.

- September 23, 1969: Congressman William G. Whitehurst introduced amendments to include all warm-blooded animals throughout their stay in the laboratory and to cover animals in the pet trade or for exhibition.
- June 8, 9, 1970: House hearings before Livestock and Grains Subcommittee of the House Agriculture Committee to amend the Act of 1966. Subcommittee Chairman Foley's bill to broaden and strengthen the Laboratory Animal Welfare Act, including the use of pain-relieving drugs, approved.
- December 7, 1970: Passed by the House of Representatives.
- December 8, 1970: Passed by the Senate.
- December 24, 1970: Bill signed into law by President Nixon.
- September 25, 26, 27 and 28, 1973: Hearings before the Special Studies Subcommittee, House Committee on Government Operations, to investigate the hazards of air-shipping animals, chaired by Congressman Floyd V. Hicks.
- August 6, 7, 8, 13, 14, 15 and 20; September 30; October 2, 1974: House hearings before Livestock and Grains Subcommittee on amendments introduced by Congressman Foley to regulate the transportation of animals in interstate commerce and to prohibit certain animal fighting ventures.
- September 9, 10, 1975: House hearings before Livestock and Grains Subcommittee on amendments introduced by Congressman Foley to regulate the transportation of animals in interstate commerce and to prohibit certain animal fighting ventures.
- November 20, 1975: Senate hearings before Subcommittee on Environment of the Committee on Commerce on amendments introduced by Senator Lowell Weicker and Senator Robert Dole to regulate animal transport.
- December 18, 1975: Passed by the Senate.
- February 9, 1976: Passed by the House of Representatives.
- April 22, 1976: Bill signed into law by President Ford.
- August 23, 1976: Amendment to Toxic Substances Control Act offered by Congressman Richard Ottinger to require Administrator of Environmental Protection Agency to consider non-animal-using methods where feasible. Amendment failed.
- September 30, 1976: Hearings held by Congressman W. R. Poage on a bill to establish a commission with subpoena powers to study animal problems, including animal experimentation (introduced by Congressman Edward Koch, December 11, 1975). NSMR opposed bill. Congress adjourned without acting on it.
- October 13, 14, 1981: House hearings before the Subcommittee on Science, Research and Technology, chaired by Congressman Doug Walgren, on seven laboratory animal bills.
- August 4, 1982: Combination bill proposed by Congressman Walgren.
- December 9, 1982: After gaining Subcommittee and Committee approval, the

Walgren bill was referred to the Committee on Energy and Commerce where Congressman Henry Waxman chaired hearings in his Subcommittee on Health and the Environment. No action was taken.

July 20, 1983: Senator Robert Dole chaired full Senate Agriculture hearings on his bill, the Improved Standards for Laboratory Animals Act.

September 19, 1984: Congressman George Brown chaired hearings on his version of the Improved Standards for Laboratory Animals Act in his Subcommittee on Departmental Operations, Research and Foreign Agriculture.

October 25, 1985: Senate Majority Leader Dole brought the Improved Standards for Laboratory Animals Act to the Senate floor as an amendment to the Farm Bill. The final vote was deferred.

October 29, 1985: A substitute bill offered by Senator John Melcher was unanimously approved.

November 20, 1985: The Health Research Extension Act, containing a section on animal welfare and a section on development of alternatives to animals, was passed over President Reagan's veto.

December 12, 1985: The Senate-House Conference on the Farm Bill approved the Improved Standards for Laboratory Animals Act.

December 16 and 18, 1985: The House, then the Senate, approved the Conference Report on the Farm Bill.

December 23, 1985: President Reagan signed the Farm Bill.

March 31, 1987: 9 CFR, Parts 1 and 2, Animal Welfare Proposed Rules were published in the *Federal Register*.

December 22, 1988: The Animal Legal Defense Fund (ALDF) filed suit against the U. S. Department of Agriculture, National Institutes of Health, and Office of Management and Budget protesting delay in promulgating final regulations.

March 15, 1989: 9 CFR, Parts 1, 2, and 3, Animal Welfare Proposed Rules were published in the *Federal Register*.

April 12, 1989: Judge Richey dismissed the ALDF suit without prejudice and provided that, in case of further delay, it be brought before him again.

August 31, 1989: Final regulations on Parts 1 and 2 published in the *Federal Register*.

July 16, 1990: Final regulations published on subparts B and C of Part 3.

August 15, 1990: Revised reproposal of subparts A and D of Part 3 published.

Other Countries

1968: French Decree Regulating Experiments on Animals.

1972: Animal Experiments Section of the Animal Protection Act, Federal Republic of Germany.

1974: Norwegian Welfare of Animals Act enacted, including regulation of animal experiments.

- 1975: Belgium requires licensing and inspection of animal experimentation.
- 1977: Denmark law on animal experiments enacted.
- 1978: Switzerland enacted an animal protection law which includes experiments on animals.
- 1979: Major laboratory animal amendments to Swedish Animal Welfare Act of 1944.
- 1980: French Decree updated.
- 1981: Greece enacted a law concerning the protection of animals.
- 1983: Luxembourg law on the Protection and Welfare of Animals enacted. All experimental procedures require advance approval by Ministers of Health and Agriculture. The authorizations, which have a time limit and may be revoked at any time, are only granted if there is no alternative method for conducting the experiment.
- 1986: West Germany amended its Animal Protection Act (see Appendix).
Finland passed an animal protective law, including requirements for licensing of establishments and individuals qualified to perform animal experiments in accordance with the European Community (EC) Directive.
New Belgian animal welfare law awaiting Royal Decree for detailed provisions to comply with EC Directive.
Netherlands Experiments on Animals Act entered into force, supplemented by the Experiments on Animals Decree fully implementing the EC Directive on animal experimentation, including a system for registering premises, authorizing persons involved in the use and supply of animals, undertaking inspections, and compiling statistics.
Australia passed Prevention of Cruelty to Animals Act, including Part 3, Scientific Procedures, providing registration of experimenters, licensing of scientific establishments and breeding establishments, and requiring approval by Animal Experimentation Ethics Committee and Peer Review Committee.
- 1987: French Decree updated again (see Appendix).
Portugal adopted regulations for humane treatment of test animals.
- 1988: Sweden passed a new Animal Protection Law, including important provisions for farm animals (see Appendix).
Spain adopted a decree to comply with the EC Directive on protection of experimental animals.
- 1989: Austria enacted laboratory animal welfare legislation.
EC Directive on animal experimentation enters into force.

ANIMAL WELFARE ACT
As Amended
(7 U.S.C. §§2131-2157)

Section 1. (a) This Act may be cited as the "Animal Welfare Act."

(b) The Congress finds that animals and activities which are regulated under this Act

are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—

- (1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;
- (2) to assure the humane treatment of animals during transportation in commerce; and
- (3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this Act, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use. The Congress further finds that—

- (1) the use of animals is instrumental in certain research and education for advancing knowledge of cures and treatment for diseases and injuries which afflict both humans and animals;
- (2) methods of testing that do not use animals are being and continue to be developed which are faster, less expensive, and more accurate than traditional animal experiments for some purposes and further opportunities exist for the development of these methods of testing;
- (3) measures which eliminate or minimize the unnecessary duplication of experiments on animals can result in more productive use of Federal funds; and
- (4) measures which help meet the public concern for laboratory animal care and treatment are important in assuring that research will continue to progress.

(7 U.S.C. 2131) (P.L. 89-544, §1, Aug. 24, 1966, 80 Stat. 350; P.L. 91-579, §2, Dec. 24, 1970, 84 Stat. 1560; renumbered and amended by P.L. 94-279, April 22, 1976, 90 Stat. 417)

Section 2. When used in this Act—

(a) The term "person" includes any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity;

(b) The term "Secretary" means the Secretary of Agriculture of the United States or his representative who shall be an employee of the United States Department of Agriculture;

(c) The term "commerce" means trade, traffic, transportation, or other commerce—

(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia;

(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1);

(d) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;

(e) The term "research facility" means any school (except an elementary or secondary school), institution, organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals in commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments: *Provided*, That the Secretary may exempt, by regulation, any such school, institution, organization, or person that does not use or intend to use live dogs or cats, except those schools, institutions, organizations, or persons, which use substantial numbers (as determined by the Secretary) of live animals the principal function of which schools, institutions, organizations, or persons, is biomedical research or testing, when in the judgment of the Secretary, any such exemption does not vitiate the purpose of the Act;

(f) The term "dealer" means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or nego-

tiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—

- (i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or
- (ii) any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat and who derives no more than \$500 gross income from the sale of other animals during any calendar year;

(g) The term "animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warmblooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes or as a pet; but such term excludes horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for improving animal nutrition, breeding, management or production efficiency, or for improving the quality of food or fiber. With respect to a dog the term means all dogs including those used for hunting, security, or breeding purposes;

(h) The term "exhibitor" means any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation, as determined by the Secretary, and such term includes carnivals, circuses, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and county fairs, livestock shows, rodeos, purebred dog and cat shows, and any other fairs or exhibitions intended to advance agricultural arts and sciences, as may be determined by the Secretary;

(i) The term "intermediate handler" means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce;

(j) The term "carrier" means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire;

(k) The term "Federal agency" means an Executive agency as such term is defined in section 105 of Title 5, United States Code, and with respect to any research facility means the agency from which the research facility receives a Federal award for the conduct of research, experimentation, or testing, involving the use of animals;

(l) The term "Federal award for the conduct of research, experimentation, or testing, involving the use of animals" means any mechanism (including a grant, award, loan, contract, or cooperative agreement) under which Federal funds are provided to support the conduct of such research;

(m) The term "quorum" means a majority of the Committee members;

(n) The term "Committee" means the Institutional Animal Committee established under section 13(b); and

(o) The term "Federal research facility" means each department, agency, or instrumentality of the United States which uses live animals for research or experimentation.

(7 U.S.C. 2132) (P. L. 89-544, §2, Aug. 24, 1966, 80 Stat. 350; P.L. 91-579, §3, Dec. 24, 1970, 84 Stat. 1560; P.L. 94-279, §§3, 4, April 22, 1976, 90 Stat. 417, 418; P.L. 99-198, Title XVII, §1756(a), Dec. 23, 1985, 99 Stat. 1650)

Section 3. The Secretary shall issue licenses to dealers and exhibitors upon application therefor in such form and manner as he may prescribe and upon payment of such fee established pursuant to section 23 of this Act: *Provided*, That no such license shall be issued until the dealer or exhibitor shall have demonstrated that his facilities comply with the standards promulgated by the Secretary pursuant to section 13 of this Act: *Provided*,

however, That any retail pet store or other person who derives less than a substantial portion of his income (as determined by the Secretary) from the breeding and raising of dogs or cats on his own premises and sells any such dog or cat to a dealer or research facility shall not be required to obtain a license as a dealer or exhibitor under this Act. The Secretary is further authorized to license, as dealers or exhibitors, persons who do not qualify as dealers or exhibitors within the meaning of this Act upon such persons complying with the requirements specified above and agreeing, in writing, to comply with all the requirements of this Act and the regulations promulgated by the Secretary hereunder.

(7 U.S.C. 2133) (P.L. 89-544, §3, Aug. 24, 1966, 80 Stat. 351; P.L. 91-579, §4, Dec. 24, 1970, 84 Stat. 1561)

Section 4. No dealer or exhibitor shall sell or offer to sell or transport or offer for transportation, in commerce, to any research facility or for exhibition or for use as a pet any animal, or buy, sell, offer to buy or sell, transport or offer for transportation, in commerce, to or from another dealer or exhibitor under this Act any animal, unless and until such dealer or exhibitor shall have obtained a license from the Secretary and such license shall not have been suspended or revoked.

(7 U.S.C. 2134) (P.L. 89-544, §4, Aug. 24, 1966, 80 Stat. 351; P.L. 91-579, §5, Dec. 24, 1970, 84 Stat. 1561; P.L. 94-279, §5, April 22, 1976, 90 Stat. 418)

Section 5. No dealer or exhibitor shall sell or otherwise dispose of any dog or cat within a period of 5 business days after the acquisition of such animal or within such other period as may be specified by the Secretary: *Provided*, That operators of auction sales subject to section 12 of this Act shall not be required to comply with the provisions of this section.

(7 U.S.C. 2135) (P.L. 89-544, §5, Aug. 24, 1966, 80 Stat. 351; P.L. 91-579, §6, Dec. 24, 1970, 84 Stat. 1561)

Section 6. Every research facility, every intermediate handler, every carrier, and every exhibitor not licensed under section 3 of this Act shall register with the Secretary in accordance with such rules and regulations as he may prescribe.

(7 U.S.C. 2136) (P.L. 89-544, §6, Aug. 24, 1966, 80 Stat. 351; P.L. 91-579, §7, Dec. 24, 1970, 84 Stat. 1561; P.L. 94-279, §6, April 22, 1976, 90 Stat. 418)

Section 7. It shall be unlawful for any research facility to purchase any dog or cat from any person except an operator of an auction sale subject to section 12 of this Act or a person holding a valid license as a dealer or exhibitor issued by the Secretary pursuant to this Act unless such person is exempted from obtaining such license under section 3 of this Act.

(7 U.S.C. 2137) (P.L. 89-544, §7, Aug. 24, 1966, 80 Stat. 351; P.L. 91-579, §8, Dec. 24, 1970, 84 Stat. 1561)

Section 8. No department, agency, or instrumentality of the United States which uses animals for research or experimentation or exhibition shall purchase or otherwise acquire any dog or cat for such purposes from any person except an operator of an auction sale subject to section 12 of this Act or a person holding a valid license as a dealer or exhibitor issued by the Secretary pursuant to this Act unless such person is exempted from obtaining such license under section 3 of this Act.

(7 U.S.C. 2138) (P.L. 89-544, §8, Aug. 24, 1966, 80 Stat. 351; P.L. 91-579, §9, Dec. 24, 1970, 84 Stat. 1562)

Section 9. When construing or enforcing the provisions of this Act, the act, omission, or failure of any person acting for or employed by a research facility, a dealer, or an exhibitor or a person licensed as a dealer or an exhibitor pursuant to the second sentence of section 3, or an operator of an auction sale subject to section 12 of this Act, or an intermediate handler or a carrier, within the scope of his employment or office, shall be deemed

the act, omission, or failure of such research facility, dealer, exhibitor, licensee, operator of an auction sale, intermediate handler, or carrier, as well as of such person.

(7 U.S.C. 2139) (P.L. 89-544, §9, Aug. 24, 1966, 80 Stat. 351; P.L. 91-579, §10, Dec. 24, 1970, 84 Stat. 1562; P.L. 94-279, §7, April 22, 1976, 90 Stat. 418)

Section 10. Dealers and exhibitors shall make and retain for such reasonable period of time as the Secretary may prescribe, such records with respect to the purchase, sale, transportation, identification, and previous ownership of animals as the Secretary may prescribe. Research facilities shall make and retain such records only with respect to the purchase, sale, transportation, identification, and previous ownership of live dogs and cats. At the request of the Secretary, any regulatory agency of the Federal Government which requires records to be maintained by intermediate handlers and carriers with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, shall require there to be included in such forms, and intermediate handlers and carriers shall include in such forms, such information as the Secretary may require for the effective administration of this Act. Such information shall be retained for such reasonable period of time as the Secretary may prescribe. If regulatory agencies of the Federal Government do not prescribe requirements for any such forms, intermediate handlers and carriers shall make and retain for such reasonable period as the Secretary may prescribe such records with respect to the transportation, receiving, handling, and delivery of animals as the Secretary may prescribe. Such records shall be made available at all reasonable times for inspection and copying by the Secretary.

(7 U.S.C. 2140) (P.L. 89-544, §10, Aug. 24, 1966, 80 Stat. 351; P.L. 91-579, §11, Dec. 24, 1970, 84 Stat. 1562; P.L. 94-279, §8, April 22, 1976, 90 Stat. 418)

Section 11. All animals delivered for transportation, transported, purchased, or sold, in commerce, by a dealer or exhibitor shall be marked or identified at such time and in such humane manner as the Secretary may prescribe: *Provided*, That only live dogs and cats need to be so marked or identified by a research facility.

(7 U.S.C. 2141) (P.L. 89-544, §11, Aug. 24, 1966, 80 Stat. 351; P.L. 91-579, §12, Dec. 24, 1970, 84 Stat. 1562; P.L. 94-279, §5, April 22, 1976, 90 Stat. 418)

Section 12. The Secretary is authorized to promulgate humane standards and recordkeeping requirements governing the purchase, handling, or sale of animals, in commerce, by dealers, research facilities, and exhibitors at auction sales and by the operators of such auction sales. The Secretary is also authorized to require the licensing of operators of auction sales where any dogs or cats are sold, in commerce, under such conditions as he may prescribe, and upon payment of such fee as prescribed by the Secretary under section 23 of this Act.

(7 U.S.C. 2142) (P.L. 89-544, §12, Aug. 24, 1966, 80 Stat. 351; P.L. 91-579, §13, Dec. 24, 1970, 84 Stat. 1562; P.L. 94-279, §5, April 22, 1976, 90 Stat. 418)

Section 13. (a)(1) The Secretary shall promulgate standards to govern the humane handling, care, treatment and transportation of animals by dealers, research facilities, and exhibitors.

(2) The standards described in paragraph (1) shall include minimum requirements—

(A) for handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, and separation by species where the Secretary finds necessary for humane handling, care, or treatment of animals; and

(B) for exercise of dogs, as determined by an attending veterinarian in accordance with the general standards promulgated by the Secretary, and for a physical environment adequate to promote the psychological well-being of primates.

(3) In addition to the requirements under paragraph (2), the standards described in paragraph (1) shall, with respect to animals in research facilities, include requirements—

(A) for animal care, treatment, and practices in experimental procedures to ensure that animal pain and distress are minimized, including adequate veterinary care with the appropriate use of anesthetic, analgesic, tranquilizing drugs, or euthanasia;

(B) that the principal investigator considers alternatives to any procedure likely to produce pain to or distress in an experimental animal;

(C) in any practice which could cause pain to animals—

- (i) that a doctor of veterinary medicine is consulted in the planning of such procedures;
- (ii) for the use of tranquilizers, analgesics, and anesthetics;
- (iii) for presurgical and postsurgical care by laboratory workers, in accordance with established veterinary medical and nursing procedures;
- (iv) against the use of paralytics without anesthesia; and
- (v) that the withholding of tranquilizers, anesthesia, analgesia, or euthanasia when scientifically necessary shall continue for only the necessary period of time;

(D) that no animal is used in more than one major operative experiment from which it is allowed to recover except in cases of—

- (i) scientific necessity; or
- (ii) other special circumstances as determined by the Secretary; and

(E) that exceptions to such standards may be made only when specified by research protocol and that any such exception shall be detailed and explained in a report outlined under paragraph (7) and filed with the Institutional Animal Committee.

(4) The Secretary shall also promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by a dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or of any State or local government, for transportation in commerce. The Secretary shall have authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling.

(5) In promulgating and enforcing standards established pursuant to this section, the Secretary is authorized and directed to consult experts, including outside consultants where indicated.

(6) (A) Nothing in this Act—

- (i) except as provided in paragraph (7) of this subsection, shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to the design, outlines, or guidelines of actual research or experimentation by a research facility as determined by such facility;
- (ii) except as provided in subparagraphs (A) and (C)(ii) through (v) of paragraph (3) and paragraph (7) of this subsection, shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to the performance of actual research or experimentation by a research facility as determined by such research facility; and
- (iii) shall authorize the Secretary, during inspection, to interrupt the conduct of actual research or experimentation.

(B) No rule, regulation, order, or part of this Act shall be construed to require a research facility to disclose publicly or to the Institutional Animal Committee during its inspection, trade secrets or commercial or financial information which is privileged or confidential.

(7) (A) The Secretary shall require each research facility to show upon inspection, and to report at least annually, that the provisions of this Act are being followed and that professionally acceptable standards governing the care, treatment, and use of animals are being followed by the research facility during actual research or experimentation.

(B) In complying with subparagraph (A), such research facilities shall provide—

- (i) information on procedures likely to produce pain or distress in any animal and assurances demonstrating that the principal investigator considered alternatives to those procedures;
- (ii) assurances satisfactory to the Secretary that such facility is adhering to the standards described in this section; and
- (iii) an explanation for any deviation from the standards promulgated under this section.

(8) Paragraph (1) shall not prohibit any State (or a political subdivision of such State) from promulgating standards in addition to those standards promulgated by the Secretary under paragraph (1).

(b)(1) The Secretary shall require that each research facility establish at least one Committee. Each Committee shall be appointed by the chief executive officer of each such research facility and shall be composed of not fewer than three members. Such members shall possess sufficient ability to assess animal care, treatment, and practices in experimental research as determined by the needs of the research facility and shall represent society's concerns regarding the welfare of animal subjects used at such facility. Of the members of the Committee—

(A) at least one member shall be a doctor of veterinary medicine;

(B) at least one member—

- (i) shall not be affiliated in any way with such facility other than as a member of the Committee;
- (ii) shall not be a member of the immediate family of a person who is affiliated with such facility; and
- (iii) is intended to provide representation for general community interests in the proper care and treatment of animals; and

(C) in those cases where the Committee consists of more than three members, not more than three members shall be from the same administrative unit of such facility.

(2) A quorum shall be required for all formal actions of the Committee, including inspections under paragraph (3).

(3) The Committee shall inspect at least semiannually all animal study areas and animal facilities of such research facility and review as part of the inspection—

(A) practices involving pain to animals, and

(B) the condition of animals, to ensure compliance with the provisions of this Act to minimize pain and distress to animals. Exceptions to the requirement of inspection of such study areas may be made by the Secretary if animals are studied in their natural environment and the study area is prohibitive to easy access.

(4)(A) The Committee shall file an inspection certification report of each inspection at the research facility. Such report shall—

- (i) be signed by a majority of the Committee members involved in the inspection;
- (ii) include reports of any violation of the standards promulgated, or assurances required, by the Secretary, including any deficient conditions of animal care or treatment, any deviations of research practices from originally approved proposals that adversely affect animal welfare, any notification to the facility regarding such conditions, and any corrections made thereafter;
- (iii) include any minority views of the Committee; and
- (iv) include any other information pertinent to the activities of the Committee.

(B) Such report shall remain on file for at least 3 years at the research facility and shall be available for inspection by the Animal and Plant Health Inspection Service and any funding Federal agency.

(C) In order to give the research facility an opportunity to correct any deficiencies or deviations discovered by reason of paragraph (3), the Committee shall notify the administrative representative of the research facility of any deficiencies or devi-

ations from the provisions of this Act. If, after notification and an opportunity for correction, such deficiencies or deviations remain uncorrected, the Committee shall notify (in writing) the Animal and Plant Health Inspection Service and the funding Federal agency of such deficiencies or deviations.

(5) The inspection results shall be available to Department of Agriculture inspectors for review during inspections. Department of Agriculture inspectors shall forward any Committee inspection records which include reports of uncorrected deficiencies or deviations to the Animal and Plant Health Inspection Service and any funding Federal agency of the project with respect to which such uncorrected deficiencies and deviations occurred.

(c) In the case of Federal research facilities, a Federal Committee shall be established and shall have the same composition and responsibilities provided in subsection (b) of this section, except that the Federal Committee shall report deficiencies or deviations to the head of the Federal agency conducting the research rather than to the Animal and Plant Health Inspection Service. The head of the Federal agency conducting the research shall be responsible for—

- (1) all corrective action to be taken at the facility; and
- (2) the granting of all exceptions to inspection protocol.

(d) Each research facility shall provide for the training of scientists, animal technicians, and other personnel involved with animal care and treatment in such facility as required by the Secretary. Such training shall include instruction on—

- (1) the humane practice of animal maintenance and experimentation;
- (2) research or testing methods that minimize or eliminate the use of animals or limit animal pain or distress;
- (3) utilization of the information service at the National Agricultural Library, established under subsection (e) of this section; and
- (4) methods whereby deficiencies in animal care and treatment should be reported.

(e) The Secretary shall establish an information service at the National Agricultural Library. Such service shall, in cooperation with the National Library of Medicine, provide information—

- (1) pertinent to employee training;
- (2) which could prevent unintended duplication of animal experimentation as determined by the needs of the research facility; and
- (3) on improved methods of animal experimentation, including methods which could—

- (A) reduce or replace animal use; and
- (B) minimize pain and distress to animals, such as anesthetic and analgesic procedures.

(f1) In any case in which a Federal agency funding a research project determines that conditions of animal care, treatment, or practice in a particular project have not been in compliance with standards promulgated under this Act, despite notification by the Secretary or such Federal agency to the research facility and an opportunity for correction, such agency shall suspend or revoke Federal support of the project. Any research facility losing Federal support as a result of actions taken under the preceding sentence shall have the right of appeal as provided in sections 701 through 706 of Title 5, United States Code.¹

(f2) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce, or received by any such handler or carrier for such transportation from any such person, department, agency, or instrumentality, unless the animal is accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine, certifying that he inspected the animal on a specified date, which shall not be more than 10 days before such delivery, and, when so inspected, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health: *Provided, however,* That the Secretary may by regulation

provide exceptions to this certification requirement, under such conditions as he may prescribe in the regulations, for animals shipped to research facilities for purposes of research, testing or experimentation requiring animals not eligible for such certification. Such certificates received by the intermediate handlers and the carriers shall be retained by them, as provided by regulations of the Secretary, in accordance with section 10 of this Act.

(g) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any person to any intermediate handler or carrier for transportation in commerce except to registered research facilities if they are less than such age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe different ages for particular kinds or classes of dogs, cats, or designated animals, for the purposes of this section, when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

(h) No intermediate handler or carrier involved in the transportation of any animal in commerce shall participate in any arrangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges for any animal not claimed within a period of 48 hours after notice to the consignee of arrival of the animal, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of such animals.

(7 U.S.C. 2143) (P.L. 89-544, §13, Aug. 24, 1966, 80 Stat. 352; P.L. 91-579, §14, Dec. 24, 1970, 84 Stat. 1562; P.L. 94-279, §89, 10, April 22, 1976, 90 Stat. 418; P.L. 99-198, Title XVII, §1752, Dec. 23, 1985, 99 Stat. 1645)

Section 14. Any department, agency or instrumentality of the United States having laboratory animal facilities shall comply with the standards and other requirements promulgated by the Secretary for a research facility under section 13 (a), (f), (g), and (h). Any department, agency, or instrumentality of the United States exhibiting animals shall comply with the standards promulgated by the Secretary under section 13 (a), (f), (g), and (h).

(7 U.S.C. 2144) (P.L. 89-544, §14, Aug. 24, 1966, 80 Stat. 352; P.L. 91-579, §15, Dec. 24, 1970, 84 Stat. 1563; P.L. 94-279, §19, April 22, 1976, 90 Stat. 423; P.L. 99-198, Title XVII, §1758, Dec. 23, 1985, 99 Stat. 1650)

Section 15. (a) The Secretary shall consult and cooperate with other Federal departments, agencies, or instrumentalities concerned with the welfare of animals used for research, experimentation or exhibition, or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals when establishing standards pursuant to section 13 and in carrying out the purposes of this Act. The Secretary shall consult with the Secretary of Health and Human Services prior to issuance of regulations. Before promulgating any standard governing the air transportation and handling in connection therewith, of animals, the Secretary shall consult with the Secretary of Transportation who shall have the authority to disapprove any such standard if he notifies the Secretary, within 30 days after such consultation, that changes in its provisions are necessary in the interest of flight safety. The Interstate Commerce Commission, the Secretary of Transportation, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it.

(b) The Secretary is authorized to cooperate with the officials of the various States or political subdivisions thereof in carrying out the purposes of this Act and of any State, local, or municipal legislation or ordinance on the same subject.

(7 U.S.C. 2145) (P.L. 89-544, §15, Aug. 24, 1966, 80 Stat. 352; P.L. 91-579, §16, Dec. 24, 1970, 84 Stat. 1563; P.L. 94-279, §11, April 22, 1976, 90 Stat. 419; P.L. 98-443, §9(i), Oct. 4, 1984, 98 Stat. 1708; P.L. 99-198, Title XVII, §1757, Dec. 23, 1985, 99 Stat. 1650)

Section 16. (a) The Secretary shall make such investigations or inspections as he deems necessary to determine whether any dealer, exhibitor, intermediate handler, carrier, research facility, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provision of this Act or any regulation or standard issued thereunder, and for such purposes, the Secretary shall, at all reasonable times, have access to the places of business and the facilities, animals, and those records required to be kept pursuant to section 10 of any such dealer, exhibitor, intermediate handler, carrier, research facility, or operator of an auction sale. The Secretary shall inspect each research facility at least once each year and, in the case of deficiencies or deviations from the standards promulgated under this Act, shall conduct such follow-up inspections as may be necessary until all deficiencies or deviations from such standards are corrected. The Secretary shall promulgate such rules and regulations as he deems necessary to permit inspectors to confiscate or destroy in a humane manner any animal found to be suffering as a result of a failure to comply with any provision of this Act or any regulation or standard issued thereunder if (1) such animal is held by a dealer, (2) such animal is held by an exhibitor, (3) such animal is held by a research facility and is no longer required by such research facility to carry out the research, test or experiment for which such animal has been utilized, (4) such animal is held by an operator of an auction sale, or (5) such animal is held by an intermediate handler or a carrier.

(b) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than \$5,000, or imprisoned not more than 3 years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than 10 years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punished as provided under sections 1111 and 1114 of Title 18, United States Code.

(c) For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," (15 U.S.C. 46, and 48-50; 38 Stat. 721-723, as amended) (except paragraph (c) through (h) of section 6 and the last paragraph of section 9, and the provisions of Title II of the "Organized Crime Control Act of 1970") (18 U.S.C. 6001 *et seq.*, 62 Stat. 856), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person, firm, or corporation with respect to whom such authority is exercised. The Secretary may prosecute any inquiry necessary to his duties under this Act in any part of the United States, including any territory, or possession thereof, the District of Columbia, or the Commonwealth of Puerto Rico. The powers conferred by said sections 9 and 10 of the Act of September 26, 1914, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any district court of the United States. The United States district courts, the District Court of Guam, the District Court to the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in section 19(c) of this Act.

(7 U.S.C. 2146) (P.L. 89-544, §16, Aug. 24, 1966, 80 Stat. 352; P.L. 91-579, §17, Dec. 24, 1970, 84 Stat. 1563; P.L. 94-279, §12, April 22, 1976, 90 Stat. 420; P.L. 99-198, Title XVII, §1753, Dec. 23, 1985, 99 Stat. 1649)

Section 17. The Secretary shall promulgate rules and regulations requiring dealers, exhibitors, research facilities, and operators of auction sales subject to section 12 of this Act to permit inspection of their animals and records at reasonable hours upon request by legally constituted law enforcement agencies in search of lost animals.

(7 U.S.C. 2147) (P.L. 89-544, §17, Aug. 24, 1966, 80 Stat. 352; P.L. 91-579, §18, Dec. 24, 1970, 84 Stat. 1564)

Section 18. Repealed. Pub. L. 91-579. Similar provisions incorporated in section 13 by P.L. 91-579, §19, Dec. 24, 1970, 84 Stat. 1564.

(7 U.S.C. 2148)

Section 19. (a) If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provision of this Act, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed 21 days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.

(b) Any dealer, exhibitor, research facility, intermediate handler, carrier or operator of an auction sale subject to section 12 of this Act, that violates any provision of this Act, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than \$2,500 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a civil penalty of \$1,500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(c) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, aggrieved by a final order of the Secretary issued pursuant to this section may, within 60 days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of section 2341, 2343 through 2350 of Title 28, United States Code, and such court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order.

(d) Any dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, who knowingly violates any provision of this Act shall, on conviction thereof, be subject to imprisonment for not more than 1 year, or a fine of not more than \$2,500, or both. Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States magistrates as provided in section 636 of Title 28, United States Code, and sections 3401 and 3402 of Title 18, United States Code, and, with the consent of the Attorney General, may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture.

(7 U.S.C. 2149) (P.L. 89-544, §19, Aug. 24, 1966, 80 Stat. 352; P.L. 91-579, §20, Dec. 24, 1970, 84 Stat. 1564; P.L. 94-279, §13, April 22, 1976, 90 Stat. 420; P.L. 99-198, Title XVII, §1755, Dec. 23, 1985, 99 Stat. 1650)

Section 20. Repealed. Similar provisions incorporated in section 19 by P.L. 94-279, §14, April 22, 1976, 90 Stat. 421.

(7 U.S.C. 2150)

Section 21. The Secretary is authorized to promulgate such rules, regulations, and orders as he may deem necessary in order to effectuate the purposes of this Act.

(7 U.S.C. 2151) (P.L. 89-544, §21, Aug. 24, 1966, 80 Stat. 353)

Section 22. If any provision of this Act or the application of any such provision to any person or circumstances shall be held invalid, the remainder of this Act and the application of any such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

(7 U.S.C. 2152) (P.L. 89-544, §22, Aug. 24, 1966, 80 Stat. 353)

Section 23. The Secretary shall charge, assess, and cause to be collected reasonable fees for licenses issued. Such fees shall be adjusted on an equitable basis taking into consideration the type and nature of the operations to be licensed and shall be deposited and covered into the Treasury as miscellaneous receipts. There are hereby authorized to be appropriated such funds as Congress may from time to time provide: *Provided*, That there is authorized to be appropriated to the Secretary of Agriculture for enforcement by the Department of Agriculture of the provisions of section 26 of this Act an amount not to exceed \$100,000 for the transition quarter ending September 30, 1976, and not to exceed \$400,000 for each fiscal year thereafter.

(7 U.S.C. 2153) (P.L. 89-544, §23, Aug. 24, 1966, 80 Stat. 353; P.L. 94-279, §18, April 22, 1976, 90 Stat. 423)

Section 24. The regulations referred to in section 10 and section 13 shall be prescribed by the Secretary as soon as reasonable but not later than 6 months from the date of enactment of this Act. Additions and amendments thereto may be prescribed from time to time as may be necessary or advisable. Compliance by dealers with the provisions of this Act and such regulations shall commence 90 days after the promulgation of such regulations. Compliance by research facilities with the provisions of this Act and such regulations shall commence 6 months after the promulgation of such regulations (August 24, 1966), except that the Secretary may grant extensions of time to research facilities which do not comply with the standards prescribed by the Secretary pursuant to section 13 of this Act provided that the Secretary determines that there is evidence that the research facilities will meet such standards within a reasonable time. Notwithstanding the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this Act, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence 90 days after promulgation of regulations under section 13 of this Act, as amended, with respect to intermediate handlers and carriers, and such regulations shall be promulgated no later than 9 months after April 22, 1976; and compliance by dealers, exhibitors, operators of auction sales and research facilities with other provisions of this Act, as so amended, and the regulations thereunder, shall commence upon the expiration of 90 days after April 22, 1976: *Provided, however*, That compliance by all persons with paragraphs (f), (g), and (h) of section 13 and with section 26 of this Act, as so amended, shall commence upon the expiration of said 90-day period. In all other respects, said amendments shall become effective upon April 22, 1976.

(7 U.S.C. 2154) (P.L. 89-544, §24, Aug. 24, 1966, 80 Stat. 353; P.L. 94-279, §15, April 22, 1976, 90 Stat. 421)

Section 25. Not later than March of each year the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a comprehensive and detailed written report with respect to—

(1) the identification of all research facilities, exhibitors, and other persons and establishments licensed by the Secretary under section 3 and section 12 of this Act;

(2) the nature and place of all investigations and inspections conducted by the Secretary under section 16 of this Act, and all reports received by the Secretary under section 13 of this Act;

(3) recommendations for legislation to improve the administration of this Act or any provision thereof; and

(4) recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation.

This report as well as any supporting documents, data, or findings shall not be released to any other persons, non-Federal agencies, or organizations unless and until it has been made public by an appropriate committee of the Senate or the House of Representatives.

(7 U.S.C. 2155) (P.L. 89-544, §25, as added by P.L. 91-579, §22, Dec. 24, 1970, 84 Stat. 1565; P.L. 94-279, §16, April 22, 1976, 90 Stat. 421)

Section 26. (a) It shall be unlawful for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

(b) It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

(c) It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the States of the United States.

(d) Notwithstanding the provisions of subsection (a), (b), or (c) of this section, the activities prohibited by such subsections shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof.

(e) Any person who violates subsection (a), (b), or (c) shall be fined not more than \$5,000 or imprisoned for not more than 1 year, or both, for each such violation.

(f) The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this subsection. Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

(g) For purposes of this section—

(1) the term "animal fighting venture" means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term "animal fighting venture" shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting;

(2) the term "interstate or foreign commerce" means—

(A) any movement between any place in a State to any place in another State or between places in the same State through another State; or

(B) any movement from a foreign country into any State;

(3) the term "interstate instrumentality" means telegraph, telephone, radio, or television operating in interstate or foreign commerce;

(4) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(5) the term "animal" means any live bird, or any live dog or other mammal, except man; and

(6) the conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of this Act as a dealer, exhibitor, or otherwise.

(h)(1) The provisions of this section shall not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this section or any rule, regulation, or standard hereunder.

(7 U.S.C. 2156) (P.L. 89-544, §26(a)-(h)(1), as added by P.L. 94-279, §17, April 22, 1976, 90 Stat. 421)

Note: P.L. 94-279 also amended 39 U.S.C. 3001(a) on material that may not be mailed.

Section 27. (a) It shall be unlawful for any member of an Institutional Animal Committee to release any confidential information of the research facility including any information that concerns or relates to—

(1) the trade secrets, processes, operations, style of work, or apparatus; or

(2) the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures, of the research facility.

(b) It shall be unlawful for any member of such Committee—

(1) to use or attempt to use to his advantages; or

(2) to reveal to any other person, any information which is entitled to protection as confidential information under subsection (a) of this section.

(c) A violation of subsection (a) or (b) of this section is punishable by—

(1) removal from such Committee; and

(2)(A) a fine of not more than \$1,000 and imprisonment of not more than 1 year; or

(B) if such violation is willful, a fine of not more than \$10,000 and imprisonment of not more than 3 years.

(d) Any person, including any research facility, injured in its business or property by reason of a violation of this section may recover all actual and consequential damages sustained by such person and the cost of the suit including a reasonable attorney's fee.

(e) Nothing in this section shall be construed to affect any other rights of a person injured in its business or property by reason of a violation of this section. Subsection (d) shall not be construed to limit the exercise of any such rights arising out of or relating to a violation of subsections (a) and (b) of this section.

(7 U.S.C. 2157) (P.L. 89-544, §27, as added by P.L. 99-198, Title XVII, §1754, Dec. 23, 1985, 99 Stat. 1649)

1. P.L. 99-198, Title XVII, §1752, Dec. 23, 1985, 99 Stat. 1645, made significant amendments to §13 of the Act and inadvertently duplicated paragraph (f) of §13. The new paragraph (f) in the 1985 amendments has been designated as (f1) and the old paragraph (f) has been designated as paragraph (f2) for clarity.

LEGISLATIVE HISTORY

P.L. 89-544:

H. Rept. 89-1418, House Committee on Agriculture
S. Rept. 89-1281, Senate Committee on Commerce
Passed House Apr. 28, 1966
Passed Senate June 22, 1966
H. Rept. 89-1848, Conference Committee
House agreed to conference report Aug. 16, 1966
Senate agreed to conference report Aug. 17, 1966
Approved Aug. 24, 1966

P.L. 91-579:

H. Rept. 91-1651, House Committee on Agriculture
Passed House Dec. 7, 1970
Passed Senate Dec. 8, 1970
Approved Dec. 24, 1970

P.L. 94-279:

H. Rept. 94-801, House Committee on Agriculture
S. Rept. 94-580, Senate Committee on Commerce
H. Rept. 94-976, Conference Committee
S. Rept. 94-727, Conference Committee
Passed Senate Dec. 18, 1975
Passed House Feb. 9, 1976
House agreed to conference report Apr. 6, 1976
Senate agreed to conference report Apr. 7, 1976
Approved Apr. 22, 1976

P.L. 99-198:

H. Rept. 99-271, Part 1, Committee on Agriculture
S. Rept. 99-145, Committee on Agriculture, Nutrition,
and Forestry
Passed House Oct. 8, 1985
Passed Senate Nov. 23, 1985
H. Rept. 99-447 Conference Committee
House and Senate agreed to conference report Dec. 18,
1985
Approved Dec. 23, 1985

EXCERPTS FROM THE HEALTH RESEARCH EXTENSION ACT OF 1985 PUBLIC LAW 99-158, NOVEMBER 20, 1985

ANIMALS IN RESEARCH

Sec. 495 (a) The Secretary, acting through the Director of NIH, shall establish guidelines for the following:

(1) The proper care of animals to be used in biomedical and behavioral research.

(2) The proper treatment of animals while being used in such research. Guidelines under this paragraph shall require—

(A) the appropriate use of tranquilizers, analgesics, anesthetics, paralytics, and euthanasia for animals in such research; and

(B) appropriate pre-surgical and post-surgical veterinary medical and

nursing care for animals in such research. Such guidelines shall not be construed to prescribe methods of research.

(3) The organization and operation of animal care committees in accordance with subsection (b).

(b)(1) Guidelines of the Secretary under subsection (a)(3) shall require animal care committees at each entity which conducts biomedical and behavioral research with funds provided under this Act (including the National Institutes of Health and the national research institutes) to assure compliance with the guidelines established under subsection (a).

(2) Each animal care committee shall be appointed by the chief executive officer of the entity for which the committee is established, shall be composed of not fewer than three members, and shall include at least one individual who has no association with such entity and at least one doctor of veterinary medicine.

(3) Each animal care committee of a research entity shall—

(A) review the care and treatment of animals in all animal study areas and facilities of the research entity at least semi-annually to evaluate compliance with applicable guidelines established under subsection (a) for appropriate animal care and treatment;

(B) keep appropriate records of reviews conducted under subparagraph (A); and

(C) for each review conducted under subparagraph (A), file with the Director of NIH at least annually (i) a certification that the review has been conducted, and (ii) reports of any violations of guidelines established under subsection (a) or assurances required under paragraph (1) which were observed in such review and which have continued after notice by the committee to the research entity involved of the violations.

Reports filed under subparagraph (C) shall include any minority views filed by members of the committee.

(c) The Director of NIH shall require each applicant for a grant, contract, or cooperative agreement involving research on animals which is administered by the National Institutes of Health or any national research institute to include in its application or contract proposal, submitted after the expiration of the twelve-month period beginning on the date of enactment of this section—

(1) assurances satisfactory to the Director of NIH that—

(A) the applicant meets the requirements of the guidelines established under paragraphs (1) and (2) of subsection (a) and has an animal care committee which meets the requirements of subsection (b); and

(B) scientists, animal technicians, and other personnel involved with animal care, treatment, and use by the applicant have available to them instruction or training in the humane practice of animal maintenance and experimentation, and the concept, availability, and use of research or testing methods that limit the use of animals or limit animal distress; and

(2) a statement of the reasons for the use of animals in the research to be conducted with funds provided under such grant or contract.

Notwithstanding subsection (a)(2) of section 553 of title 5, United States Code, regulations under this subsection shall be promulgated in accordance with the notice and comment requirements of such section.

(d) If the Director of NIH determines that—

(1) the conditions of animal care, treatment, or use in an entity which is receiving a grant, contract, or cooperative agreement involving research on animals under this title do not meet applicable guidelines established under subsection (a);

(2) the entity has been notified by the Director of NIH of such determination and has been given a reasonable opportunity to take corrective action; and

(3) no action has been taken by the entity to correct such conditions; the Director of NIH shall suspend or revoke such grant or contract under such conditions as the Director determines appropriate.

(e) No guideline or regulation promulgated under subsection (a) or (c) may require a

research entity to disclose publicly trade secrets or commercial or financial information which is privileged or confidential.

Sec. 4. Plan for Research Involving Animals

(a) Establishment of Plan—The Director of the National Institutes of Health shall establish a plan for—

(1) research to be conducted by or through the National Institutes of Health and the national research institutes into methods of biomedical research and experimentation—

(A) which do not require the use of animals;

(B) which reduce the number of animals used in such research; or

(C) which produce less pain and distress in such animals than methods currently in use.

(2) establishing the validity and reliability of the methods described in subparagraph (A);

(3) the development of such methods which have been found to be valid and reliable; and

(4) the training of scientists in the use of such methods.

The plan required by this paragraph shall be prepared not later than October 1, 1986.

(b) Dissemination of Information—The Director of the National Institutes of Health shall take such actions as may be appropriate to convey to scientists and others involved with research or experimentation involving animals information respecting the methods found to be valid and reliable under subsection (a)(2).

(c) Interagency Coordinating Committee—The Director of the National Institutes of Health shall establish within the National Institutes of Health an Interagency Coordinating Committee to assist the Director of the National Institutes of Health in the development of the plan required by subsection (a). The Director of each national research institute shall serve on the Committee.

1. Austria, Belgium, Denmark, Federal Republic of Germany, France, Iceland, Ireland, Italy, Luxembourg, The Netherlands, Norway, Sweden, Switzerland, and the United Kingdom.
2. The full text of the 1966 Laboratory Animal Welfare Act, including its 1970, 1976, and 1985 amendments, appears at the end of this chapter.
3. The Animals (Scientific Procedures) Act of 1986 continues and in several provisions increases the protection provided by the 1876 Act. See Appendix for the full text.
4. Arizona and Alaska passed anti-cruelty laws in 1913.
5. Mr. Morse, who fought the reform efforts of the founders of the Humane Society of the United States as chief executive of the American Humane Association, became president of the Humane Society of the United States from 1967-1970.
6. The New York State Society for Medical Research also sponsored the bills introduced by Senator Javits in the 89th and 90th Congresses (see "Laboratory Animal Laws: Important Dates," this chapter).
7. The American Humane Association was also absent when hearings were called by Congressman Poage on the Resnick bill, September 2, 1965. At subsequent hearings, AHA representatives testified against inclusion of laboratories in the bill, reflecting the unbridled pressure of the biomedical establishment on the big humane societies at that period.
8. For example, Nobel laureate, Sir Peter Medawar, was Chairman of UFAW's Scientific Advisory Committee. He repeatedly sent statements on the value of the British Act for quotation at Congressional hearings.
9. The statements by Sir Graham Wilson and Dr. Lawrence Abel were published by AWI in *Information Report*, Vol. 15, No. 4, September-October 1966.
10. Speaker of the House of Representatives, 1989—.
11. Secretary of Health and Human Services, 1982-1985.

Chapter V

ANIMALS AND AIRLINES

by Fay Brisk

When things got rough in Iran, a civilian with the U. S. Department of Defense did what other Americans were doing at the time. On January 4, 1979, he put Barney, the family dog, into a crate and shipped him home to St. Louis. What happened on that Pan Am flight made Barney a legend.

As the story goes: When the 747 jumbo jet landed in London, the 80 pound, black and grey German Shepherd jumped out of the cargo hold on to the runway, leaving behind a completely demolished "escape proof" kennel. The ground crew caught him and put him in another kennel and sent him on his way. But when the plane put down at Kennedy International Airport in New York, Pan Am found itself with two empty kennels and no Barney. The dog's owner, waiting in St. Louis with her four children, feared the worst. Was Barney in some foreign country, never to be found?

Pan Am searched the cargo bin and sent teletypes back and forth between New York and London and came up with nothing. It wasn't until the plane had crossed the Atlantic six times (with three stops in Frankfurt, Germany) and flown halfway around the world to Guam that Barney turned up, hungry, thirsty, and thoroughly "done in." Where Barney had hidden may always remain a mystery, but one thing is certain: In that blazing sun, with the plane on the ground, no dog could have remained in that cargo bin and survived. Not even Barney.

Barney was sent home in style and, although tragedies still occur, air travel has been less dismal for other animals since the Humane Transport Law (amendments to the Animal Welfare Act) was passed in 1976. One reason for this is increased public and industry awareness of the problems involved in air shipping not only pets, but millions of wildlife and laboratory animals annually, counting the white mice and rats. Another is federal prosecution of the airlines and intermediate handlers (transport agents whose service includes airport pickup and delivery).

Since its first airline case in 1980, when Delta Airlines agreed to a \$2,000 settlement after a dog died in transit from heat prostration, the U. S. Department of Agriculture's Animal, Plant and Health Inspection Service (APHIS) has prosecuted 12 major airlines and sent letters of warning to countless others for violations of crating, temperature control, health care, and other shipping regulations observed during airport inspections. Cases involving laboratory animals included three capuchins and a pigtail monkey that died of exposure in freezing weather, foxhounds shipped to a San Francisco laboratory in unsuitable crates, and rabbits shipped in cardboard boxes. Other cases involved a polar bear that died of heat prostration, cats that froze to death on runways, and 11 reindeer that arrived dead from Alaska.

APHIS also has made a videotape, "Not Just Another Bag," to instruct airlines on the proper care and handling of animals, and investigates reports from

pet owners who air-ship their cats and dogs or take them along as excess baggage.

But even with stricter safeguards, the airlines are getting careless, particularly in hot weather when flight delays on airfields can raise havoc with animals in cargo compartments. For example, a Golden Retriever, en route from Chicago, arrived at Newark (NJ) International Airport—dead of heat prostration. Before that, at the same airport, an airline kennel melted and the Shih Tzu puppy in it was singed by exhaust fumes as it was being unloaded from the plane.

These and other mishaps point up the need for a stronger crackdown by USDA inspectors and, along with that, airline adoption of a new "live animal" category, rather than the designation of animals as baggage or freight. In addition, spot checks of cargo terminals by qualified humane agents from local societies would go a long way toward keeping airlines on the alert. These measures would add considerably to the progress that has been made since the 1970s when the plight of air-shipped animals was so widespread, it led to one of the most dramatic animal welfare crusades of the decade and to a federal law to protect them. It all began, quite unexpectedly, on a fine August morning in 1970 . . .

As an Eastern Airlines jetliner was unloading passengers at Miami's International Airport, a man ran out on the airfield wielding an ax and, before crewmen could stop him, hacked \$100,000 worth of holes in the underbelly of the \$5 million Boeing 727. The distraught pet owner was a 38-year-old carpenter who raised dogs as a hobby, and he slashed the plane to avenge the death of his Irish Wolfhound, which had suffered a heat stroke on a previous flight.

Condolences aside, the carpenter spent some time in Dade County jail, but the story did not end there. The Miami case made headlines and brought into the open long-simmering grievances against the airlines.

Pet owners charged that their dogs and cats were being mistreated, misrouted, and generally mishandled. They wrote to the Civil Aeronautics Board, to the White House, to the Congress, to anyone who would listen. The cruelty they described—animals left on airfields in the blazing sun, puppies stacked to the gills in lettuce crates—was shocking, but there was no way to stop it within the federal government. Not a single agency had, or wanted, the authority.

Meanwhile, on Capitol Hill, Senator Lowell P. Weicker (R, CT) and Representative G. William Whitehurst (R, VA) responded to letters from their own constituents and others by introducing bills to make air travel safer for animals. But the ink was barely dry on the 1970 Animal Welfare Act amendment, and it would be six years before Congress was ready for another.

In the interim, I visited the air cargo terminals in Miami, where I witnessed the atrocities to laboratory-bound monkeys described so vividly by the late Dorothy Dyce, investigator for the Animal Welfare Institute. I need have gone no farther than Washington National Airport, one of two airports owned and operated by the federal government and used daily by traveling Members of Congress. There, just across the Potomac from the Nation's Capital, animals were being mistreated under the very noses of the Federal Aviation Administra-

tion, which made the government a partner in crime, subsidized by the American taxpayer.

The animals came from all parts of the country, many sick, dead, or in generally weak condition as the result of inadequate crating, insufficient ventilation, poor routing, slow pickups and deliveries, or just plain negligence on the part of freight handlers.

For some inexplicable reason, this cruelty, under the guise of "commerce" and in the hands of the airlines, was largely ignored. So, too, were the crating standards established for USDA-licensed dealers under the 1970 Animal Welfare Act, as well as the air express and air freight rules on animals filed with the Civil Aeronautics Board (CAB). To make matters worse, a CAB hearing (on a routine rates case brought against the airlines by the pet industry) confirmed what some of us—and that Miami carpenter—had long suspected: All was not well in those nearly airtight belly compartments in which most animals were shipped! Designed to have minimal air flow in case of fire, the compartments were as airtight as an automobile with the doors and windows closed, when the aircraft was on the ground. As the Administrative Law Judge sadly observed, "Valued animals have suffered destruction during air transportation."

In desperation, I appealed to the National Council on Animal Transportation, but this was a loosely knit group of government and private industry executives seeking only voluntary ways to solve animal shipping problems, and a proposal for federal legislation fell on deaf ears. In the end, it was Warren W. Rosenberg, a Council member and an REA Air Express executive, who agreed to provide space in his Washington terminal for an all-volunteer, privately financed "animalport" to operate under the banner of the Washington Humane Society.

"Welcome Aboard the REA Express Flying Ark" read the gaily illustrated animal poster that greeted our small group that July night in 1972 as we entered the sprawling, package-strewn warehouse. We heard the whining and the barking of dogs above the noise of the jets and the rumble of trucks and airport carts as they brought the animals from incoming flights. Outside, airline freight handlers were tossing cartons and crates through open doorways onto two steel-roller conveyor belts manned by REA. Along with the animals, the belts carried rolls of TV film and machine parts, containers of blood plasma tagged "rush," and dozens of sealed, metal cylinders marked "Radioactive." These occasionally crashed to the floor.

Stacked against the walls were shipments of puppies for the pet shops, foxes for the hunt and the dogs to hunt them with, snakes and wallabies for the zoos, monkeys, cats and rats for the research labs, and, winging their way to cockfights, row upon row of sharp-eyed, speckled roosters, each in a box of its own.

We had the run of the warehouse, loading our supermarket carts with watering cans, pet food, and finely shredded Department of Defense documents we used for bedding. (An Army Captain from Fort Belvoir's security office supplied us with bales of it.) It wasn't long before the venture brought not only the press and television cameras to the scene, but a few Members of Congress as well.

"Nobody could have spent the evening I spent at Washington National Air-

port, seeing the cruelty . . . without trying to do something about it," Senator Weicker was to remark at a Senate hearing he chaired later on.

Another Congressman who did something about it was Representative Floyd V. Hicks (D, WA) who, after visiting the animalport, scheduled four-day investigative hearings in September 1973.

No Congressman, however, was more pressured by his constituents than Representative Joseph L. Fisher (D, VA) in whose district the airport was located. Representative Fisher, flanked by airport officials, embarked on a tour of his own. To everyone's embarrassment, he discovered someone's pet dachshund pawing at a dry water dish and panting wildly in the poorly ventilated crate she had been shipped in from Germany. The Congressman, who owned a dachshund, needed no further convincing.

But not everyone appreciated our efforts. Lurking always in the background were threats of lawsuits ("How dare you open our crates?"). Confrontations between volunteers and freight handlers were an almost daily occurrence. Some freight handlers did what they could to be helpful, but others resented our presence. They stacked animals upside-down and placed bitches in season next to males. They hid our leashes, oiled their trucks with our watering cans, and signed petitions to have us thrown out. These were ignored by the management. We were servicing 200 animals a night (not counting the birds and mice that still, unfortunately, are not covered by animal welfare regulations), we were doing it for free, and we were handy in emergencies. Not a day went by without one:

A dog from a Maryland laboratory had a litter of six just before take-off. A bright-eyed Irish setter, placed directly in front of some laboratory animals, chewed through a wire opening in his crate, poked his head out, and sank his long, sharp teeth into a carton of plump, white rats. We couldn't save a little Pekingese that had suffocated in a plastic-covered crate, but we did go to the rescue of Ginger, a 120-pound cougar that had been shipped from a USDA-licensed game farm to a breeding compound near Tampa, Florida. Stranded for the night in the Allegheny Airlines freight terminal, Ginger was tearing and twisting the heavy wire lining of her crate as she tried to get out and lacerated her paws in the struggle. We called the National Zoo, where she was taken, but it was too late. She died a few days later. Not long afterward I was to wheel Ginger's crate into a Congressional hearing room, where a House Agriculture Subcommittee, considering humane transport legislation, could see the torn wires with bits of tawny fur still caught in them.

Ginger's shipper, however, was only one of many USDA-licensed dealers who violated the crating standards and got away with it. From Kansas, Missouri, and other "puppy mill" states came tiny schnauzers, huskies, cocker spaniels, scotties, and all the rest, some dead, many with infected ears, bleeding urinary tracts, bloody diarrhea, respiratory disorders, and phony health certificates, all bound for East Coast pet shops and unsuspecting buyers.

From such rural areas as Guntown, Mississippi; Paris, Texas; and Pinsonfork, Kentucky, came the coonhounds, foxhounds, walker hounds, beagles, and blue ticks. So accustomed were they to being mistreated, they looked surprised at any display of human kindness. "Good to the last hunt" seemed to be the view widely shared by the shippers, and the "last hunt," to judge by the

traffic, was always the next one. These dogs, some old and tough, with ugly scars and graying muzzles, were continually on the travel circuit, shipped from airport to airport, from dealer to dealer, and from hunter to hunter the year 'round. Some had been cooped up for so long that when given a chance to relieve themselves, their urine was black.

Their plight weighed heavily on my mind. As the animalport's director, I wrote to the editor of *The American Hunter*, a magazine published by the American Rifle Association, imploring him to publish what I considered a legitimate story about the cruel shipment of hunting dogs. His reply, in part: "I have a very great many problems and a very large job and not much time. Therefore, this article is simply going to have to wait until we can get to [it] and do it properly."

I never heard from him again. Many a shipper, however, heard from us. We telephoned the worst ones to advise them to ship more humanely, but as a matter of routine, we sent them a "Notice of Violation." It read: "Should you continue to ship in this manner, we will be forced to impound your animals, purchase new crates at your expense, and request REA Air Express and the airlines to refuse your shipments." Not surprisingly, we received some unprintable replies.

Laboratory animals made up the bulk of the shipments, and none fared worse than the monkeys. The so-called "lucky ones" hid in the hangars or got away—never to be seen again—when their crates fell apart as they were being unloaded from the aircraft. We saw rhesus, capuchins, gibbons, and baboons, some clutching dried-up apple cores they had sucked for moisture; some never making it alive. Some were glad to see us, greeting us with incessant chatter and curious looks, but most were wary and unfriendly. We gave them water and bits of banana and other fruit, but there was little we could do for the eight crates of mice that froze to death en route from Albany, New York, to Norfolk, Virginia, or for the rats that had died and were left to decay in the summer heat. An airline pilot, who objected to their being stowed aboard passenger planes, wrote the Federal Aviation Administration: "The containers sometimes break and the small animals (usually mice or rats) escape . . . Since hungry mice may acquire a taste for the insulation on electrical wiring, or anything else chewable, this can constitute a safety hazard to the aircraft." FAA disagreed.

Early in 1974, REA fell on hard times, and on a sad, drizzly day in November 1975, the company that had traced its origins to the Pony Express closed its doors forever and would ride no more.

It was the end of an era for REA, which had handled a large chunk of the multimillion-dollar small animal traffic. (The airlines had it all, now.) It was also the end of our animalport, but no matter. It had long served its purpose. Nationwide, the news media, reporting on other airports, had alerted the public to the perils of air-shipping animals; national humane organizations had joined our ranks, and, after a Senate and three House hearings, humane legislation was on its way.

Now the REA warehouse was empty and dark. Gone were the retired Navy Captains, the housewives, the Congressional aides, the registered nurses, and the government employees that numbered among the more than 50 volunteers. As some of us looked back over the three and a half years of our mission, we marveled that we had never lost a dog or suffered a dog bite. We talked of

the pheasants that got away, the sick parrot we “adopted,” and the loose snake we did not.

What we wanted to forget—and could not—were the shrill cries, the clenched fists, and the accusing eyes of those laboratory-bound monkeys. Somehow, as we quietly took down our banners, packed up our carts, and called it a day, we had a disturbing sense of unfinished business.

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Chapter VI
DOGS
by Christine Stevens

Near this spot
Are deposited the remains of one
Who possessed beauty without vanity,
Strength without insolence,
Courage without ferocity.
And all the virtues of man without his vices.
This praise, which would be unmeaning flattery
If inscribed over human ashes,
Is but just tribute to the memory of
Boatswain, a dog.

Lord Byron

The most devoted and loving of animals domesticated by man, the dog has a long history of persecution and exploitation that has increased in recent years in a number of ways. A mass-production pet trade and a ruthless laboratory dog trade are modern manifestations that the dogs of antiquity were spared. The pet industry's overbreeding and aggressive sales approach has made dog owners—at least temporarily—out of many who would never have bought a dog without strong pressure. As a result, irresponsible dog ownership has spiraled, and problems of dog control have grown to the point that canine birth control has become a major subject of civic concern.

NEED TO NEUTER PETS AND TO RESTRICT COMMERCIAL BREEDING

Local governing bodies in the United States have sought to control the problem through a variety of spay/neuter programs. In 1970, Los Angeles opened the first spay/neuter clinic in the United States. This clinic has been so effective that the number of dogs handled by the city and county shelters has declined by approximately 50% in the past 10 years, and the number of licensed dogs that have been altered has risen from 10 to 50%. In 1977, Los Angeles boosted this important legislation by requiring breeders to purchase a \$25 breeder's license, with proceeds to go to the city's spay/neuter clinic to offset deficits, if any. Other municipalities followed Los Angeles' lead due to the remarkable success of its spay/neuter program. Successful programs have subsequently opened in Phoenix, Tucson, Boulder, Fort Lauderdale, Tallahassee, Ann Arbor, Detroit, Cleveland, Philadelphia, Dallas, Seattle, and many other cities across the nation.

After the Vancouver, Canada, Society for the Prevention of Cruelty to Animals opened its spay/neuter clinic, the number of cats and dogs destroyed because they were "surplus to the human requirement" dropped from 80,000 in

1976 to 17,800 in 1980. In the same period the number of dead animals picked up off the streets declined by an astonishing 90%.

State governments have also initiated spay programs. At the present time, Arkansas, California, Florida, Illinois, Kansas, Massachusetts, North Dakota, and Oklahoma have enacted laws requiring that animals adopted from public and/or private shelters must be sterilized. The Massachusetts law stipulates that all dogs and cats released from shelters must be spayed or neutered or a deposit must be made by the adopter; animals under six months old have 60 days after reaching that age to be spayed or neutered. The law in Arkansas applies in counties with populations exceeding 200,000 people. The California law stipulates that funds from the program can be used to follow up to make sure animals were sterilized, to promote educational efforts to prevent overpopulation, or for spaying or neutering programs.¹ The Oklahoma law appears in the Appendix.

Hawaii has a law that gives authority to each county to require neutering of dogs.

New York has amended its dog laws to allow municipalities to create clinics providing low-cost spaying and neutering. In 1975, Connecticut enacted legislation to establish a pilot spay/neuter program. Funds were not appropriated, however, so animal welfare organizations worked to raise the necessary operating revenues. The first clinic opened in 1979. Since that time, thousands of animals have been spayed or neutered, and the clinics have potentially averted the birth of 50 million offspring.

New Jersey approached the problem by establishing an Animal Population Control Program in May 1983, through which economically disadvantaged pet owners can have their dogs and cats spayed or neutered for \$10 per pet at 135 facilities. The owner simply presents a certificate available through public assistance programs to the clinic. The program is funded through a surcharge on license fees for owners of unaltered dogs. In 1987, the law was expanded so that all dogs and cats adopted from shelters and pounds can be neutered for \$20.00 if they are properly licensed. License fees go into a public spay/neuter clinic.

Bills to provide loans to municipalities to establish low-cost, nonprofit spay/neuter clinics have been proposed in the U. S. Congress, but no hearings have ever been held.

In addition to spay/neuter clinics, the use of differential license fees for unspayed or unneutered dogs has proved a successful enticement for pet owners in metropolitan areas and many states as well. In 1973, both California and Oregon cut license fees in half for dogs rendered incapable of reproduction. Connecticut and Pennsylvania halved the license fees for spayed or neutered dogs. Pennsylvania, additionally, offers a reduced lifetime license for spayed or neutered dogs 6 months of age or older that have been tattooed with identification numbers. Wisconsin passed a law in 1984 to increase license fees for dogs not spayed or neutered. Other states whose license fees for altered dogs are half or less than half as much as for unaltered dogs include: Indiana, Maine, New Hampshire, New Jersey, New York, Utah and Virginia.

Marketing of dog food containing an anti-fertility drug may prove to be a valuable adjunct to spaying programs in reducing canine births.

Birth control programs alone cannot prevent overpopulation of domestic animals unless breeders are brought under control. Several states and municipalities have recognized this and have passed regulations to protect unweaned puppies from overzealous pet dealers. Because they are especially appealing at a very young age, unscrupulous dealers often put them on display when only 4 weeks old. A Los Angeles ordinance prohibits the sale of pups or kittens under 8 weeks of age. Laws passed by Connecticut in 1974, by Maryland in 1975, and by Ohio and Virginia in 1977 require pups shipped into the state to be 8 weeks of age or older unless accompanied by their dam. California prohibits importation into the state of pups less than 12 weeks old. Since 1980, Illinois has prohibited the sale of pups less than 8 weeks old. Regulations on the federal level are similar. The 1976 amendments to the Animal Welfare Act authorized the Secretary of Agriculture to set the minimum age. Accordingly, USDA regulations provide that no dog or cat may be delivered into commerce, except to a research facility, unless it is over 8 weeks of age and has been weaned.

However, violations of the regulations occur frequently at Christmas time when dealers ship puppies prematurely to cash in on the holiday market. In the past, not only were some pups too young but often were shipped in flimsy crates that risked the pups' safety due to shifting cargo and inadequate ventilation. These conditions have been ameliorated by federal transportation requirements adopted in 1977 implementing amendments to the Animal Welfare Act. Carriers may not accept live animals for shipment unless crates, ventilation, and temperature control meet federal regulations. Major airlines have been fined in a number of instances by the U. S. Department of Agriculture for failure to meet the minimum standards (see Chapter V).

The right of dogs to decent treatment is being eroded by the numbers born for which no good, permanent homes exist. The very industry that depends on the natural friendship between *homo sapiens* and *canis familiaris* is responsible for the development of an anti-dog sentiment that is more easily fostered because the dog population has spiraled, but the number of responsible owners has not kept pace.

CITATION SYSTEM TO PENALIZE IRRESPONSIBLE OWNERS INSTEAD OF DOGS

Abandonment of dogs is a criminal offense in most states (see Chapter I), but these laws are hard to enforce because the abandoned creature bears no identification. Some humane organizations post signs to inform the public that fines or imprisonment can be imposed on people who abandon dogs. The citation system, whereby the owner of a straying dog may be issued a ticket similar to a traffic ticket, is becoming more widely adopted.

A 1976 California law prohibits animal control officers from seizing dogs on their owners' property, though they may pursue them home and issue a citation to the owner. By shifting the penalty to the irresponsible owner, who pays a fine, rather than the luckless dog, who usually pays with his life when his owner fails to reclaim him at the pound, justice and efficiency alike are served. If the officer apprehends a dog off the owner's property, he must notify the owner by posting a notice on the owner's front door.

In Chicago, a pet owner may be fined up to \$200 for a violation of animal control laws. In cases where the owner was not at fault, the animal control officer may use his discretion and issue a warning much the same as a traffic policeman might for a minor traffic infringement. Citation systems deserve to be adopted throughout the country for both ethical and practical (reduction of the multimillion dollar impoundment costs) reasons.

THE DOG POISONER

Signs offering a reward for information leading to the arrest and conviction of dog poisoners have proved effective in stopping a rash of poisonings in many instances. Half the states, the Canal Zone, Puerto Rico, and the Virgin Islands specifically prohibit dog poisoning (see Chapter I). Death by poison is a cruel end for pets who unguardedly eat a piece of strychnine-impregnated meat. The animal may experience agonizing convulsions over a period of hours before death.

POUND CRUELTY, CLANDESTINE SALES, AND POUND SEIZURE

Dog poisoning is not countenanced in the United States. For the most part, the right to a painless death is recognized; however, there are widespread abuses in the collection and disposition of stray dogs. Henry Bergh fought pound cruelty in the 19th century, but it still continues today, and unionization of pound employees in big cities makes sadistic treatment of pound inmates more difficult to stop.

A model state law prepared by the Animal Welfare Committee of The United States Animal Health Association in 1970 would require licensing or registration and inspection of all dog control centers, pet shops, animal dealers, kennels, and research facilities to supplement the federal Animal Welfare Act.

The model state law could assist in preventing local dog wardens from making clandestine sales to animal dealers. Dr. Grant Kaley, Chairman of the drafting committee, reported the capture of a pet by a New York dog warden and its tracing to a laboratory within a matter of hours by New York State Agriculture Department personnel. In 1972, Rhode Island passed a law based on the model that includes the following provision:

No dog officer shall give or sell or negotiate for the gift or sale to a dealer, or research facility of any animal which may come into his custody in the course of carrying out his official assignments. No dog officer shall be granted a dealer's license and each application for such license shall include a statement made under oath, that neither the applicant or any member or employee of the firm, partnership or corporation making application is a dog officer . . .

Similar provisions have been adopted in Connecticut, Massachusetts, Virginia, and Wisconsin.

Thirteen states prohibit sale of animals from pounds and shelters for laboratory experimentation (see Chapter IV).

STEALING DOGS

Dog theft for sale to laboratories, the pet trade, the guard dog trade, and for hunting has not been ended by federal action even though the initial legislation in this field, the Laboratory Animal Welfare Act, was passed for the express purpose of ending dog and cat theft (see Chapter IV). The right of dogs and dog owners to effective protection from thieves has not yet been adequately expressed in law.

Some states have sought to meet the problem by increasing penalties for such theft. For example, Arkansas made the stealing of a dog "upon which the State license has been paid" a *felony* in 1975, and in 1989, North Carolina made the theft of a dog a felony. Suggested penalties for dog theft in some other states are equally heavy, as outlined in the Appendix.

The Georgia law requires that a dog thief be sentenced to a penitentiary for one to ten years (see Appendix).

Many states have made removing a license tag from a dog illegal. In Vermont, for example, a fine of \$100 to \$400, imprisonment up to 60 days, or both is imposed. In Hawaii, a fine of not more than \$50 is assessed. Maine law provides that anyone convicted of maliciously killing or injuring a dog or any other animal, "or exposing it to any poisonous substances with the intent that the life of such dog or other animal shall be destroyed . . . or steals or entices away such animal" be fined from \$20 to \$500 and/or imprisoned for up to 4 years.

To combat dog theft and speed return of lost dogs to their owners, a number of tattooing services have been established. For example, The National Dog Registry tattoos the owner's social security number on the inside of the dog's right or left flank or the inside of one of its ears. Many local shelters now provide tattoo clinics. Pennsylvania encourages the practice by offering a lifetime license for tattooed dogs. Convinced of its efficacy, West Germany has, since January 1, 1983, required the tattooing of all pets as follows: "H" for "hund," "K" for "katze", the owner's name and address, the pet's name, tattoo number, and the name of the performing veterinarian. All of the information is maintained in a central register in Bonn. France has a similar system that has proved effective. A centralized tattooing program in the United States could make theft of pets and hunting dogs far more difficult. Law enforcement agencies would be able to trace stolen animals more readily and to penalize both thieves, "fences," and those who purchase animals from them.

MUTILATION, PELT SALES, HIT AND RUN DRIVERS, AND ACCIDENT PREVENTION

Massachusetts forbids the mutilation of a dog, cat, or bird and provides that any violator shall be fined not less than \$100 "or not more than the maximum fine, permitted by law, for the larceny of the same value as such cat, dog, or bird."²

Michigan specifically prohibits the cropping of a dog's ears unless performed by a registered veterinary surgeon while the dog is under anesthesia. Violations are considered misdemeanors under the state's anti-cruelty statutes.

In 1973, California declared it a misdemeanor for anyone to kill any dog or cat with the sole intent of selling or giving away its pelt, or to possess, import

into the state, sell, buy, give away, or accept any such pet "with the sole intent of selling or giving away the pelt of the dog or cat."

In Massachusetts, persons convicted of cruelty to animals may not obtain a dog license for a period of two years. If they have one, it becomes void and "shall immediately be surrendered to the authority issuing such license and tag" (Mass. sec. 140-137D).

In Maryland, Minnesota, and Suffolk County, New York, law enforcement and rescue personnel are authorized to rescue animals left in hot cars.

Modern law recognizes a dog as valuable property. Several states require that a motorist whose car strikes and injures a dog may not simply drive off but must stop, ascertain the dog's injuries, and render aid. Statutes in Connecticut, Maryland, New Hampshire, New Jersey, New York, Oregon and Rhode Island require a driver involved in an accident involving a dog or cat to stop and promptly report to the police or nearest humane society (see Appendix). In California, the law requiring a motorist to stop "and take reasonable steps to notify the owner in the event of damage to property" has been ruled by the courts to apply to dogs. Massachusetts imposes a fine of \$50 on motorists who fail to report the striking of a dog or cat to the owner or custodian.

Thus far, two states, Washington and Oregon, have acted to prevent the many accidents and injuries that result from carrying dogs in open-bed or pickup trucks. Oregon's driver manual states: "You cannot carry a dog outside a vehicle unless it is protected by a framework, carrier, or other device to keep it from falling from the vehicle." Other states need to enact similar legislation to prevent unintentional cruelty and to ensure that drivers act responsibly if they should strike an animal.

Extensive standards governing the transportation of companion animals became effective in 1987 in Virginia (VR 115-02-13).

DOG RACING AND DOG FIGHTING

Greyhounds bred for racing have a short life expectancy because only the swiftest are kept. Slower dogs are destroyed or sold to laboratories. Some states have enacted legislation to protect both the hounds and the rabbits used to train them. In 1976, California voters soundly defeated a ballot initiative which would have legalized pari-mutuel gambling on greyhound racing in the state. This legislation stymied the interest in racing as a commercial enterprise by outlawing the financial impetus for the business.

In 1973, one of the biggest greyhound racing states decided in favor of the rabbits. Florida's Attorney General held that a live rabbit is indeed a "living dumb creature" and is therefore protected under the anti-cruelty statutes, but the trainers went to court and reversed the decision. Finally, in July 1984, the Florida legislature specifically outlawed baiting animals including the use of live rabbits in the training of greyhounds. A violation may be punished by a fine of not more than \$5,000 and/or imprisonment of up to one year.

Texas outlawed use of live animals as lures in dog race training or coursing in 1985.

Dog racing is illegal in 31 states. Only Alabama, Arizona, Arkansas, Colorado, Connecticut, Florida, Idaho, Iowa, Kansas, Massachusetts, Nevada, New Hampshire, Oregon, Rhode Island, South Dakota, Texas, Vermont, West Virginia and Wisconsin have legalized dog racing.

States with laws against dogfighting are listed in Chapter IX. Recent increase in dogfights and the training of dogs to attack police to protect caches of illegal drugs and other criminal activities have led to enactment of laws on dangerous dogs in California, Georgia, Illinois, Maryland, Minnesota, Rhode Island, South Carolina, South Dakota, and Texas.

LEASH LAWS

Most states and municipalities require that every dog be licensed and vaccinated against rabies after the age of six months, that a dog tag be kept on the dog's collar, and that the animal not be allowed to run at large. Ohio's leash law is typical:

It shall be unlawful for the owner, keeper or harbinger of any female dog to permit a dog to go beyond the premises of such owner or keeper at any time such dog is in heat, unless such dog is properly on leash. The owner or keeper of every dog shall at all times keep such dog either confined upon the premises of the owner or firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises of the owner or keeper, or it shall be kept under reasonable control of some person, except when lawfully engaged in hunting, accompanied by an owner or handler.

Usually when a dog without a license is picked up by the authorities, it is impounded, but in many states, including Connecticut, Georgia, Illinois, Kentucky, Maryland, Michigan, and Pennsylvania, a dog seen chasing livestock or poultry may be shot on the spot. Leash laws help prevent dogs from getting into trouble.

In addition to licensing, leashing, and vaccinating, many cities, including New York City, require dog owners to remove all feces deposited by their dogs.

The District of Columbia requires distemper as well as rabies vaccinations for dogs over four months of age.

Some jurisdictions give consideration to the dogs as well as the public when considering leash law legislation. For example, in Kent County, Michigan, no one may confine a dog on a chain for more than 4 hours unless the chain permits movement over at least 30 square feet and allows the dog free access to a suitable shelter. In Arlington, Virginia, the county has designated special "dog runs" in parks throughout the county. Other municipalities are considering or have adopted this type of legislation for their parks and other recreation areas. These provisions allow dogs to run, catch frisbees, and play other games under their owners' supervision.

PETS IN PUBLIC HOUSING AND NURSING HOMES

Several states have enacted legislation providing that elderly tenants may keep pets in public housing projects. In 1983, Public Law 98-181, the Housing

and Urban-Rural Recovery Act of 1983, addressed pet ownership in federally assisted rental housing for the elderly or handicapped (see Appendix).

Hawaii, Kentucky, Maryland, Massachusetts, Minnesota, New Jersey, Oklahoma, Washington and West Virginia recognized the need for people in nursing homes to have the companionship of animals and passed specific legislation allowing animals to visit or reside in long-term health care facilities. A University of Minnesota survey of 50 state health departments in 1986 showed that all states allow pets in nursing homes.

CARE AND HOUSING OF INSTITUTIONALIZED DOGS

Minimum standards of care and housing are part of kennel license requirements in many states. For example, Delaware requires structurally sound kennel facilities, clean bedding, adequate heating, ventilation, lighting and drainage, shelter from sunlight, rain or snow, and cold. Shelter must be provided for "outdoor" dogs when the temperature falls below 50° F. The law further requires daily provision of food "free from contamination, wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirement for the condition and size of the dog" (7-1703). Such minimal requirements may seem a matter of course to most people. Unfortunately, a concentration camp mentality often manifests itself in the kennel situation, whether in puppy mills, boarding kennels, laboratories, or dog pounds. Whenever dogs are housed in large numbers, constant vigilance is necessary to prevent deliberate cruelty and to minimize physical and mental suffering. Every friend of dogs should seize every possible opportunity to see how dogs are housed and cared for in local kennels.

Kansas passed a "Puppy Mill" law, effective January 1, 1990, and inspections are now being conducted.

Recently passed laws in Connecticut, Massachusetts, and New York require pet shops to guarantee the health of the animals they sell. New Jersey has also issued pet shop regulations under the State Division of Consumer Affairs, effective 1988 (see Appendix).

EUTHANASIA

The method of disposing of the sick and injured, the aged and unwanted or homeless animals also requires close scrutiny. Many states regulate methods of euthanasia. Use of the decompression chamber has been banned in 28 states (see Appendix). It has never been used in Mississippi, New Hampshire, North Dakota, or Vermont. The decompression chamber is inhumane because animals with upper respiratory infections cannot clear their ears, and intense pain in the inner ear results when the air pressure is abruptly reduced. Puppies and kittens often fail to die and have to be put through the process repeatedly, causing agonizing swelling of internal organs.

Severe suffering is caused by injecting strychnine, and extreme apprehension results from injecting succinylcholine or other curariform drugs that paralyze the animal. These substances should never be used to kill a dog. Florida and New Jersey have banned use of paralytic drugs for euthanasia. Pre-

ferred methods, according to these laws, are injection of sodium pentobarbital or bottled carbon monoxide. Law enforcement officers, veterinarians, and animal shelter workers may provide emergency euthanasia to suffering, moribund animals.

Most methods using electrocution are intensely painful and should not be used. Carbon monoxide kills painlessly, but if the source is automobile exhaust, it must be cooled and purified by bubbling it through a 40-gallon tank of water. Carbon dioxide and nitrogen are capable of producing painless death; however, specially designed equipment is necessary for large animals. California recently banned nitrogen chambers.

All methods of euthanasia must be administered by properly trained persons. Those responsible for euthanasia programs should insist on the thorough training of personnel to make the animals' last moments painless and, to the extent possible, pleasant.³

Least painful to a humane individual who must administer euthanasia and most pleasant for the dog is presentation of sleeping pills in meat. The animal, after it becomes drowsy, may be destroyed by another method or a sufficient oral dose may be given initially so it never wakes up. This method requires time and individual attention. Injection of a barbiturate into the vein is quick and painless if done by a skilled person. Legislation authorizing the licensing of humane societies to purchase and use a barbiturate in their shelters for euthanasia exists in the following states: Colorado, Connecticut, Florida, Indiana, Maine, Maryland, Michigan, New Jersey, New York, Oregon, Texas, Washington, and Wisconsin.

That dogs have an enormous capacity for enjoying life is well known to all those who have taken needy, ill-treated dogs into their homes. As Albert Schweitzer reminds us, we can help repay our tremendous debt to animals by helping those now living. For those individual dogs we cannot help, the least we can do is ensure that death comes without pain or fear.

1. Humane Society of the United States, *Prevent a Litter* (Washington, DC, 1988).

2. Mass. sec. 272-80c.

3. The 1986 Report of the Committee on Euthanasia of the American Veterinary Medical Association provides an authoritative reference. Single copies are available from the Association (930 North Meacham Road, Schaumburg, IL, 60196-1074).

Chapter VII

CATS

by Emily Stewart Leavitt and Christine Stevens

When I play with my cat,
who knows if I am not a pastime to her
more than she is to me.
—Michel Eyquem de Montaigne

When Adlai Stevenson was governor of Illinois, he wrote a veto message to the "Cat Bill" that had been passed by the General Assembly. This famous defense of cats, dated April 23, 1949, cited substantial reasons why cats merit respect as well as protection.

I herewith return without my approval, Senate Bill No. 93, entitled 'An Act to Provide Protection to Insectivorous Birds by Restraining Cats' . . . I veto and withhold my approval from this Bill for the following reasons:

It would impose fines on owners or keepers who permitted their cats to run at large off their premises. It would permit any person to capture, or call upon the police to pick up and imprison, cats at large. It would permit the use of traps. The Bill would have statewide application—on farms, in villages, and in metropolitan centers.

This legislation has been introduced in the past several sessions of the Legislature, and it has, over the years, been the source of much comment—not all of which has been in a serious vein. It may be that the General Assembly has now seen fit to refer it to one who can view it with a fresh outlook. Whatever the reasons for passage at this session, I cannot believe there is a widespread public demand for this law or that it could, as a practical matter, be enforced.

Furthermore, I cannot agree that it should be the declared public policy of Illinois that a cat visiting a neighbor's yard or crossing the highway is a public nuisance. It is in the nature of cats to do a certain amount of unescorted roaming. Many live with their owners in apartments or other restricted premises, and I doubt if we want to make their every brief foray an opportunity for a small game hunt by zealous citizens—with traps or otherwise. I am afraid this Bill could only create discord, recrimination and enmity. Also consider the owner's dilemma: To escort a cat abroad on a leash is against the nature of the cat, and to permit it to venture forth for exercise unattended into a night of new dangers is against the nature of the owner. Moreover, cats perform useful service, particularly in rural areas, in combatting rodents—work they necessarily perform alone and without regard for property lines.

We are all interested in protecting certain varieties of birds. That

cats destroy some birds, I well know, but I believe this legislation would further but little the worthy cause to which its proponents give such unselfish effort. The problem of cat versus bird is as old as time. If we attempt to resolve it by legislation, who knows but what we may be called upon to take sides as well in the age old problems of dog versus cat, bird versus bird, or even bird versus worm. In my opinion, the State of Illinois and its local governing bodies already have enough to do without trying to control feline delinquency.

For these reasons, and not because I love birds the less or cats the more, I veto and withhold my approval from Senate Bill No. 93.

Respectfully,
Adlai E. Stevenson, Governor

LAWS AGAINST CRUEL TREATMENT, ABANDONMENT, AND THEFT OF CATS

Cats are protected by state anti-cruelty statutes and the federal Animal Welfare Act. Cats have also been accorded personal property status in some states. This protects them from harm in the same way that a car might be protected from vandalism or theft. If the car or cat is stolen, the thief may face civil and criminal penalties.

The laws of New Mexico, Massachusetts, and Vermont protect cats as personal property and clearly have the welfare of the animals in mind. New Mexico's statute is succinct:

Dogs, cats, and domesticated fowl and birds shall be deemed and considered as personal property, and all remedies given for the recovery of personal property and of damages for injuries thereto are hereby extended to them.¹

A Massachusetts law provides special protection for cats in its prohibition of stealing a cat for exhibition or mutilation purposes:

Whoever, without the consent of the owner, takes a cat, dog or bird, with intent to exhibit or cause it to be exhibited or to subject it or cause it to be subjected to experimentation or mutilation while alive, or with intent to sell it or cause it to be sold for the purpose of being exhibited or subjected to experimentation or mutilation as aforesaid, shall be punished by a fine of not less than one hundred dollars nor more than the maximum fine permitted by law for the larceny of an article of the same value as such cat, dog or bird.²

Vermont's law prohibits concealing the identity of a dog or owner, or confining or secreting a dog, or unlawfully killing any domestic animal.³ These laws state in unambiguous terms that the theft or damage of domestic animals is not condoned and is unlawful.

Abandonment of cats is prohibited in most states (see Chapter I). The California law states: "Every person who willfully abandons any domestic dog or cat is guilty of a misdemeanor."⁴ The penalty is a jail sentence for not more than 6 months and/or a fine not to exceed \$500.

Maryland has enacted similar legislation.⁵ Oklahoma and Tennessee have attempted to deal with abandonment but have limited the prohibition to public places.⁶ Although these laws prohibit some types of abandonment, they are an ineffective remedy because they only serve to move the abandonment from public to private property. Even if a person is found guilty of abandonment on public property, the fine is so woefully small that the legislation is essentially ineffective.

Since 1968, New Jersey has required motorists who strike a cat or other domestic animal to stop, ascertain the extent of the injuries, and notify the police or the nearest SPCA. This law is quoted in full, along with similar statutes in other states, in the Appendix.

States have also acted to prevent dealers from taking kittens away from their mothers before they are mature enough to survive on their own. In 1974, Maryland prohibited the sale, distribution, or importation of pups or kittens less than 8 weeks old unless they are delivered to a government-supported or operated shelter or to a Maryland humane society.⁷ This type of legislation prohibits dealers from profiting by the increased saleability of kittens at a young age at the expense of their health and well-being.

A considerable number of state laws refer to "dogs and cats." To simplify the reading of this book, please also refer to the preceding chapter on dogs for laws that relate to both the major pet animals.

LICENSING

Cat licensing laws have been enacted in cities and counties in over 20 states. Some municipalities have launched aggressive enforcement campaigns. Albuquerque, New Mexico's program has effectively used live cat traps, citizen rented cat traps, a graduated impoundment fee, and a door-to-door licensing campaign.

Although cats will be better protected if licensed, the nature of the cat makes it a more difficult species to tag and collar than a dog. Because cats are roaming, climbing creatures, they cannot wear ordinary collars without risking being caught on a branch and choking or starving to death. They should, therefore, always be given elastic collars so they can struggle free if caught.

Pounds in many states will not hold an unlicensed cat as long as one with a tag. These animals are frequently euthanized before their owners contact the shelter. In California, for example, until 1980 stray cats could be euthanized immediately if impounded, while the state allowed dog owners 72 hours to claim their pet. This legislation was remedied by the state's "Equal Rights Bill" that provides for the same holding period for both dogs and cats.⁸

Despite their popularity as pets in an increasingly urbanized society, cats are less frequently specifically provided for under state anti-cruelty codes. More often, they are covered under provisions for "any animal" or "any domestic animal" and are placed in "dog pounds" by "dog catchers." Cats may be stolen or obtained by dealers from pounds and sold to laboratories for experimentation or to biological supply houses for dissection. They can also be consigned to laboratories in states that either mandate or make optional their surrender for research purposes.

Cats may also suffer from improper care and housing in kennels and from inhumane methods of euthanasia⁹, although there are numerous state laws regulating both the care and housing of small animals and methods of euthanasia.

Admired since the days of antiquity for their independent, graceful and fastidious qualities and for their skills as predators, domestic cats have nevertheless long been singled out for persecution and neglect. Their seeming aloofness may foster respect but also creates false beliefs about the cat's ability to fend for itself. People who adopt a kitten and abandon it when it grows up are guilty of a criminal offense. It is important that the public be aware of state laws on the obligations of pet owners.

BIRTH CONTROL

Cats continue to contribute a "lion's share" to pet overpopulation. As noted in the preceding chapter, many successful spay/neuter programs have been established nationwide, and eight states (Arkansas, California, Florida, Illinois, Kansas, Massachusetts, North Dakota, and Oklahoma) have enacted laws requiring that animals adopted from public and/or private shelters must be sterilized. (The Oklahoma law appears in the Appendix.)

Several states have enacted supporting legislation for spay/neuter clinics, namely Connecticut's state-funded pilot program, New York's law empowering its municipalities to create low-cost clinics, Florida's statute mandating sterilization of cats adopted from its shelters, and New Jersey's low-cost program for economically disadvantaged pet owners.

License fee differentials for spayed versus unspayed animals are a direct outgrowth of the spay/neuter legislation. California, for instance, added the following provision to its Food and Agricultural Code in 1973: "Whenever a city or county requires cat license tags, any such tag shall be issued for one-half or less of the fee required for a cat if a certificate is presented from a licensed veterinarian that the cat has been spayed or neutered."

The legislation mentioned above helps to relieve pet overpopulation. However, an enormous amount of work remains to be done in development and use of fertility control for cats.

The Universities Federation for Animal Welfare in Britain¹⁰ has tested a system for humane control of feral cat populations in specific areas. It is fully described in a booklet and a videocassette and has been used in both Europe and Africa. Hotels, hospitals, docks, and other places where feral cats have gathered and multiplied, work with humanitarians to capture the cats in box traps, transport them to veterinarians for neutering, mark them, find homes for some, euthanize the ill, and return the healthy to their original territory. The work involved is considerable, but where friends of stray cats are already working and can be enlisted, the result has met with approval by all concerned and has greatly reduced the suffering of the cats and kittens.

1. New Mexico 77-1-1.

2. Mass. sec. 272-80C.

3. Vermont sec. 13-481.

- 4. Ca. penal sec. 597s.
- 5. Md. sec. 27-60.
- 6. Okla. sec. 21-1691; Tenn. sec. 39-423.
- 7. Md. sec. 27-60B.
- 8. Ca. Food and Agriculture 31752.
- 9. See Appendix for listing of states which prohibit use of the high altitude decompression chamber.
- 10. Universities Federation for Animal Welfare, 8 Hamilton Close, South Mimms, Potters Bar, Herts., England EN6 3QD.

Chapter VIII

HORSES

by Pearl Twyne

Updated and Revised by Valerie Stanley

Historically, horses endured centuries of abuse by overworking, overdriving, beating, and brutal cruelty, with no legal protection. Each man considered the animal as his property to treat as he chose. Horses were forced to pull heavy loads on stony streets, which caused serious foot and leg troubles, and these ailments were treated under the most abusive methods and unsanitary conditions, which added to the misery of the horse. Weight pulling was and still is popular at fairs and other competitive events. These contests were often disastrous to the horse, sometimes causing blindness, ruptures, other crippling injuries, and death.

A growing public reaction to the unnecessary cruelty inflicted on these helpless animals resulted in a new ethical concept that animals should have legal rights against such brutality. General anti-cruelty laws were being enacted in all of the states, and specific laws were passed to correct particular abuses current in each state. There are a growing number of state legislatures reviewing their animal welfare laws to remove obsolete ones and to make the revised ones more effective and enforceable. Many states either have or are considering the creation of bureaus under the administration of state agriculture departments to regulate and investigate animal welfare cases. There are certain weaknesses in state organizations unless they work in cooperation with humane organizations. They can be manned by indifferent personnel, or become buried in red tape.

The State of Illinois has one of the better organizations which is administered by the Department of Agriculture. The Department administers the "Humane Care for Animals Act" (1973, Chapter 8, Sections 701-716). The term "animal" under the Act means "every living creature," domestic or wild, but does not include man. The Director may, in formulating rules and regulations pursuant to the Act, seek advice and recommendations of humane societies in Illinois.

The Department establishes qualifications for humane investigators, maintains a current listing of all approved humane investigators, and these lists are available for public inspection. Complaints of suspected violations are referred to a Department investigator, any law enforcement official, or an approved humane investigator. All investigators must follow proper legal procedures. Any investigation requiring legal action must be reported to the Department.

Recently, a couple of states have taken a different approach to animal protective legislation. Instead of merely prohibiting specific acts of cruelty, they have set forth certain minimum standards of treatment that must be afforded animals. Minnesota and New Hampshire, for example, have specific statutes addressing the care of horses. Minnesota's statute defines standards for equine food, water, shelter, space and cleanliness requirements, exercise, hoof care and transportation (Minnesota Statutes Annotated Sec. 346.38). Failure to comply

with these requirements is punishable as a misdemeanor. New Hampshire's statute specifies the proper care, feeding, and shelter for horses (New Hampshire Revised Statutes Annotated Sec. 435:11-15). Upon the first failure to comply with the Act, an owner is to be notified of the proper care of horses; upon the second offense, the horse may be seized and not returned until restitution for expenses is made and proof of proper care is made. Upon a third or subsequent offense, the horse shall be permanently seized (Section 435:16).

The following specific laws have emerged in response to particular needs in certain areas.

WEIGHT PULLING CONTESTS

Horse and pony pulling contests are a regular feature of summer fairs throughout the United States. Teams of horses and ponies are made to compete against each other to determine which team can pull a load of logs or concrete the greatest distance. Trainers of these teams often use whips, clubs and electric shocks that will cause the horses and ponies to lunge forward powerfully with the heavy load in tow. It is not uncommon for these events to take place in the blistering heat of summer, which makes the events doubly uncomfortable for the animals involved.

Maine is the first state to enact a law (1988) prohibiting the use of whips, brads, goads, electrical prods, and other painful devices. A commission is established by law to write regulations carried out by a special pulling-event superintendent. Maine also passed legislation prohibiting persons convicted of animal abuse from participating in pull events.

A Legal Handbook for Inspectors, produced and used by the Royal Society for the Prevention of Cruelty to Animals, points out that:

... there is no legal definition of overloading, but as a result of experiments carried out by experts at the Society's request, it has been decided that the maximum total load which a horse should be required to pull on level ground is from 2 ½ to 3 times its own weight. Any weight over this is calculated to cause distress, especially on slopes. The Inspector in dealing with such cases should take careful note of the condition of the horse, its breathing, sweating, etc. and of any violence such as beating inflicted on it by its handlers.

The Massachusetts Society for the Prevention of Cruelty to Animals established Rules Governing Horse and Ox Pulling Contests (revised 1990) that are enforced both by the Agricultural Fairs Association membership and the Massachusetts S.P.C.A. (for the full text of these rules, see Appendix). Under the rules, officers of the Massachusetts Society for the Prevention of Cruelty to Animals are authorized to recommend to the Agricultural Fairs Association that certain animals who have been treated inhumanely be disqualified from competition.

Any contest involving overloading or overdriving of a horse that would injure the animal would be a violation of the general anti-cruelty laws of any state. In 1964, the Humane Agent of the Animal Welfare League of Arlington, Virginia, stopped the working of two horses that were pulling heavy logs from a

clearing—hooked up so short to singletrees that at every step they took, the singletrees would strike their hocks. As a result, their legs were sore and bloody. This action was taken under the general anti-cruelty laws of the State of Virginia.

In 1958 the Office of the Attorney General in Kentucky determined that a contest that involves overloading or overdriving horses in order to test their strength would be unnecessary and cruel use of the animals and a violation of the state anti-cruelty law.

TAIL DOCKING AND TAIL SETTING

A cruel practice, which is still followed today and that causes misery, disfigurement, and sometimes death from infection and injury, is the docking of tails. Docking involves the cutting of the solid part of a horse's tail, usually for the purpose of shortening the tail. This operation severely restricts a horse's ability to swat at annoying flies on his or her hindquarters and sensitive stomach area.

Harness ponies and draft horses, such as the Clydesdales and Percherons, are docked today for show and exhibition purposes. Also, today, the muscles of other breeds, such as Saddlebreds and Tennessee Walking Horses, are clipped and the tail forced into an arch through the application of a sort of bustle known as the tail-set. Some exhibitors apply a mustard ointment that stings in the anus, which causes the horse to hold the tail up, giving the horse a fiery, alert appearance. A "humane tail," or artificial tail, could be used on the Tennessee Walking Horse, as the show standards permit longer and fuller tails in this division than in the Saddlebred horses. When the horses are not being shown or exhibited, some owners provide screened stables to protect them from flies. However, when these prize animals are old or lose their usefulness, they are sold and usually go from one poor owner to another until their old days are spent in misery.

Many states have specific laws against docking tails. Section 597n¹ of the California Penal Code states:

Docked horses; prohibition of docking; importation or use of unregistered animals. It shall be unlawful for any person or persons to dock the tail of any horse, within the State of California, or to procure the same to be done, or to import or bring into this State, any docked horse, or horses, or to drive, work, use, race or deal in any unregistered docked horse, or horses, within the State of California, except as provided in Section 597r of this Code. [1907, amended 1963]

Section 597p: *Docked horses; registration; time; fee; certificate*. Within 30 days after the passage of this act, every owner, or user of any docked horse, or horses, by filing in the office of the county clerk of the county in which such docked horse, or horses may then be kept, a certificate, which certificate shall contain the name, or names of the owner, together with his or her post office address, a full description of the color, age, size and the use made of such docked horse, or horses; which certificate shall be signed by the owner, or his, or her agent. The county clerk shall number such certificate consecutively and record the name in a book, or register to be kept for the purpose only; and shall receive as a fee for recording of such certificate, the sum of fifty

cents (\$0.50), and the clerk shall thereupon issue to such person so registering such horse or horses a certificate containing the facts recited in this section, which upon demand shall be exhibited to any peace officer, and the same shall be conclusive evidence of a compliance with the provisions of Section 597n of this code. [1907, amended 1963]

Section 597q: *Docked horses; unregistered; prima facie evidence.* The driving, working, keeping, racing or using of any unregistered docked horse, or horses, after 60 days after the passage of this act, shall be deemed *prima facie* evidence of the fact that the party driving, working, keeping, racing or using such unregistered docked horse, or horses, docked the tail of such horse or horses. [1907, amended 1963]

Section 597r: *Docked horses; exception of imported stocks; registration.* Any person or persons violating any of the provisions of this act, shall be deemed guilty of misdemeanor: provided, however, that the provisions of Sections 597n and 597p and 597q shall not be applied to persons owning or possessing any docked pure-bred stallions and mares imported from foreign countries for breeding or exhibition purposes only, as provided by an act of Congress entitled 'An act regulating the importation of breed animals' and approved March 3, 1903, and to docked native bred stallions and mares brought into this state and used for breeding or exhibition purposes only; and provided further, that a description of each such animal so brought into the State, together with the date of importation and name and address of importer, be filed with the county clerk of the county where such animal is kept, within 30 days after the importation of such animal. [1907, amended 1963]

Section 599d: *Docking horses.* Whoever shall cut the solid part of the tail of any horse in the operation known as 'docking', or in any other operation performed for the purpose of shortening the tail, and whoever shall cause the same to be done, or assist in doing such cutting, is guilty of a misdemeanor.

The penalty for the above misdemeanor is a fine not exceeding \$1,000 and/or a sentence of imprisonment not exceeding six months.

COMPARABLE STATUTES

State	Section No.
Connecticut	53-251
District of Columbia	22-814
Illinois	8-109
Maine	17A-510
Massachusetts	272-79A
Michigan	750.60-750.64
Minnesota	346.23
New Hampshire	644:8-6
New York	Agric. & Markets Code 368

<i>State</i>	<i>Section No.</i>
Ohio	959.14
South Carolina	47-1-60
Washington	16.52.090
Guam	14-599b

The State of New York further prohibits any operation upon a horse's tail in order to set it in an unnatural position. Section 368 of the New York Agriculture and Markets Law states, in part:

Any person who cuts the bone, tissues, muscles or tendons of the tail of any horse, mare or gelding, or otherwise operates upon it in any manner for the purpose or with the effect of docking, setting, or otherwise altering the natural carriage of the tail, or who knowingly permits the same to be done upon premises of which he is the owner, lessee, proprietor or user, or who assists in or is voluntarily present at such cutting, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars or both.

COMPARABLE STATUTES

<i>State</i>	<i>Section No.</i>
Connecticut	53-251
Maine	17A-510
Massachusetts	272-79A
South Carolina	47-1-60
Washington	16.52.090

Massachusetts imposes a fine of up to \$250 upon anyone exhibiting or showing a horse with its tail cut (in the manner prohibited in Section 272-79A) unless the owner furnishes an approved affidavit showing that the tail was cut in a state where such cutting was not then prohibited by the laws of that state and while the horse was owned by a legal resident of that state (Section 272-79B).

New York has a similar prohibition (Agriculture and Markets Code Section 368) imposing a penalty of up to one year's imprisonment and/or a fine of up to \$500 for violation of the law.

JUMPERS

Competition at horse shows has resulted in relentless cruelty to the horse. The jumpers in training are forced to jump beyond their normal capacity. Many trainers stretch very fine, almost invisible piano wires over the top of the jump or attach sharp nails or bottle caps to the top rails of the jump so that if a horse hits the wire or rail, he is severely stung or his legs are cut and bruised. Because he has been injured by these methods before, the horse makes a super effort to jump higher and higher. Because these training methods are often used on private property, a humane officer or any other officer cannot investigate these

practices without the owner's permission or without a search warrant.

The Penal Code of California, Section 597g, states:

Poling a horse is a method of training horses to jump which consists of (1) forcing, persuading, or enticing a horse to jump in such manner that one or more of its legs will come in contact with an obstruction, consisting of any kind of wire or a pole, stick, rope or other object with brads, nails or other sharp points imbedded therein or attached thereto or (2) raising, throwing, or moving a pole, stick, wire, rope or other object against one or more of the legs of the horse while it is jumping an obstruction so that the horse, in either case, is induced to raise such leg or legs higher in order to clear the obstruction. The poling of any horse is unlawful and any person violating the provisions of this section is guilty of a misdemeanor.

Section 597k provides that

... anyone who, having care, custody or control of any horse or other animal, uses what is known as the bristle bur, tack bur, or other like device, by whatsoever name known or designated, on such horse or other animal for any purpose whatsoever, is guilty of a misdemeanor and is punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment in the county jail for not less than 10 days nor more than 175 days, or by both such fine and imprisonment.

Wisconsin also prohibits the use of such devices in Section 948.07 of the state anti-cruelty laws, imposing a fine of up to \$500 and/or a jail sentence of up to one year for violation of that section.

SORING

The average show Tennessee Walking Horse lives a life of agony as his forefeet are deliberately made sore to produce the elongated smooth running walk that is considered to be desirable in the showing of this breed.

The method of making the horse sore varies according to the ingenuity of the trainer and/or owner. The most common method is a blistering compound called "scootin' juice" that blisters the pastern area of the forefeet, and over these blisters, chains are placed that rub up and down on the sore area at each step the tortured animal takes, causing ugly sores and swelling. If the horse tries to lie down to take the weight from his sore forefeet, he is spurred or whipped on. Sometimes a fine line is cut by a razor blade around the coronet band and salt rubbed in to make the horse sore. Nails or other devices are placed in the foot under the pads to cause soreness. The pads hide the pain-producing devices from public view and make it difficult for an investigator to examine the horse to find the cause of soreness. The purpose of the soreness is to make the horse lift the forefeet high and so induce overreaching of the hind feet from a foot to about 16 inches or more. This results in a fast-flowing motion as the horse is trying desperately to take the weight from its aching forefeet.

This show gait is called the "sore lick" or big lick. To make this cruelty even more degrading, the women riders are usually dressed in glittering, colorful rid-

ing clothes, indifferent to the suffering of the animals they are riding. Not all show Walking Horses are sore, and some stables are trying to stop the soring, realizing, perhaps, that the true genetic characteristics of the breed will be lost if the practice continues. But these exhibitors are usually discriminated against by the show judges who prefer the "sore lick."

As Humane Officer of the Virginia Federation of Humane Societies, Pearl Twyne was invited by the North Carolina Federation of Humane Societies to cover the North Carolina Walking Horse Celebration Show held at the Dorton Arena, Raleigh, North Carolina, in 1964. She reported:

We saw a sore Walking Horse being led by two grooms; the horse was in such pain that it quivered at each step it took. The grooms saw us watching them and stopped, but the horse was too sore to put its weight on its forefeet to stop, and it fell to its knees.

Accompanied by a veterinarian, we visited the stalls housing the Walkers. The exhibitors refused permission to examine their horses, one man saying that he did not want to incriminate himself. Three horses were lying in their stalls, breathing hard, their feet stretched out and bleeding. When the groom saw officers looking at the horses, he rushed over and grabbed the veterinarian by the throat and thrust him back against the stall wall, threatening to beat up the veterinarian if we did not leave. We left and obtained five search warrants to enter the stalls to examine the horses. Two reluctant deputy sheriffs went with the officers and veterinarian to serve the warrants. The owners of some of the horses covered by the warrants were in the show ring, and when they learned of the search warrants, they left the ring, loaded their horses in vans without taking off the saddles, and left. The owner of the horses lying in their stalls just disappeared.

Then the grooms, owners and some of the spectators mobbed us. The deputy sheriffs, the veterinarian and the Humane Officers were packed in tightly, surrounded by a screaming mob. Several women tried to grab our hair. Newspaper men on the edge of the crowd yelled questions, trying to get a story, and it was suggested that it might be better to ask questions if and when the officers got us out of the mob. This shows the ruthlessness and extent to which some of the exhibitors will go to win a blue ribbon. The Humane Officer of the North Carolina Federation of Humane Societies had attended another show in North Carolina and had taken pictures of a bleeding horse; he was manhandled in the same way and the film taken from his camera to be exposed to the light so that he could not use the evidence.

The torture inflicted on the show Tennessee Walking Horse is a violation of the anti-cruelty laws of every state in this country. However, the exhibitors of these horses are usually influential people, and they refuse permission to examine their horses. It is necessary to obtain search warrants to examine the horses if the owners refuse permission. Without the testimony of a trained person, such as a veterinarian, successful prosecution is doubtful. In 1956, Kentucky enacted legislation to prohibit soring, limiting protection under this law to "Walking Horses" only (Section 436.185). Maryland law provides:

. . . every person who wilfully and maliciously interferes with,

injures, destroys or tampers with, or who wilfully sets on foot, instigates, engages in or in any way furthers any act by which any horse used for the purposes of racing, breeding or competitive exhibition of skill, breed or stamina, is interfered with, injured, destroyed or tampered with, or any act tending to produce such interference, injury, destruction or tampering, whether such horse be the property of himself or another, shall be deemed guilty of a felony, punishable by imprisonment in the Maryland Penitentiary for a term of not less than one year nor more than three years. [Section 27-61]

In New York, it is also a felony to commit such an act (Agriculture and Markets Code, Section 361). Tennessee law (Sections 39-3-118 through 39-3-120) prohibits the soring of horses and requires the ringmaster to disqualify any horse that has been sored. The penalty for violation is imprisonment up to one year and/or a fine up to \$1,000.

The 1968 Session of the Virginia Legislature was requested to amend the anti-cruelty Code of Virginia to prohibit the inflicting of pain or injury to the front hooves or legs of horses for the purpose of competition. When hearings were held on the proposed law, one of the Delegates, who happened to own Walking Horses, objected and stated that Walking Horses would not move in the desired show gait unless they were sore. He explained the various methods used to make the horses sore. The other members of the committee were shocked and overwhelmingly amended Section 18.1-216 (now Section 18.2-392) of the Virginia Code of Laws to provide that it is a misdemeanor to "willfully inflict inhumane injury or pain on any animal . . ." This provision was made a part of the anti-cruelty law to protect the long-suffering Walking Horse. The law became effective on July 1, 1968.

Although there was a public outcry against the abuses and crippling of Tennessee show Walking Horses, the soring continued unabated. The trainers and owners claimed that if the horses weren't sore, they would move like any other horse, and the public would lose interest in the showing of this breed. After two years of hard work and public education on the suffering of these animals, Public Law 91-540 was enacted in 1970 to ban the use of blistering agents, burns, cuts, lacerations, or other cruel or inhumane methods or devices for the purpose of affecting the gait through pain. The U. S. Department of Agriculture (USDA) was authorized to enforce the Act (now codified at 15 U.S.C. Section 1821 *et seq.*).

Humanitarians were badly disappointed at the ineffectiveness of the law. USDA only requested \$100,000 for enforcement, which was woefully inadequate to police the many horse shows held every weekend throughout the United States. The industry used sophisticated soring methods that required the purchase of expensive equipment by USDA to detect the fever and other effects of soring. Also, loopholes in the Act made criminal prosecution almost impossible. The Act did not stop soring.

On July 13, 1976, President Ford signed into law a bill to amend the Horse Protection Act of 1970. The amendment (P.L. 94-360) made soring a felony offense punishable by imprisonment up to three years and fines up to \$5,000. The new law broadened the definition of "sore" so that a horse could be assumed to be sore if it manifested abnormal sensitivity in both forelegs. This amendment also expanded the protection to other types of horses that are often

drugged to hide the soreness of their legs when performing in the show ring.

The authority of USDA was expanded considerably. Show, sales, and exhibition managements are now required to maintain records so that they may be examined by the Secretary of Agriculture or his agents who exercise subpoena authority if necessary. The Secretary is authorized to seize any equipment used to sore horses and to hold for examination up to 24 hours any horse presumed to be sore. An increase of \$500,000 was authorized to enforce the Act.² USDA veterinarians are now better trained in this area and, in some cases, equipped with sophisticated thermovision machines to detect hidden soreness. Thermovision photographs showing inflammation have been accepted in criminal prosecutions.

Those enforcing the law are still subject to harassment. In 1986, USDA inspectors were present at the Celebration of the Tennessee Walking Horse in Shelbyville, Tennessee, to carry out their duties under the Act. When they had a sore horse who was favored to win excused from competition, however, they were subjected to vociferous objection by some of the crowd.

In 1988, a court decision prohibited heavy ankle chains and 4-inch pads used to force Tennessee Walking Horses to lift their feet high. The lawsuit, brought in 1984 by the American Horse Protection Association, led USDA to reduce the height of the pads and the weight of the chains. The industry responded by cancelling horse shows.

Any further information needed to stop or report the soring or abuse of show animals may be obtained from the Secretary of Agriculture, Washington, D. C.

RODEOS

Another competition involving cruelty to animals is the rodeo. The most severe form of cruelty in this entertainment is what is known as "steer busting," in which a nearly grown or full grown steer is used. A man places a rope around the horns of the steer, flips the rope over the opposite side of the animal, then rides off at an angle from the running steer. When the steer reaches the end of the rope, the rope passes behind the hindquarters, its head is wrenched back along its shoulder at the combined speed of the running steer and the running horse. The rope trips the animal, and it is violently thrown to the ground. The Wyoming Humane Society reports that "This violence causes about one out of every fifteen steers that leave the chutes to be killed or crippled. If the steer is not injured or killed, it is trucked from one show to another, where it is busted and stunned over and over until it is finally killed or crippled." After the Steer Roping Event at Laramie, Wyoming, in 1963, Mr. H. E. Dearing of the Wyoming Humane Society reported:

At last we got into the pen, back of the slaughterhouse (where the crippled animals were taken) and took pictures of the injured and crippled steers—you will notice (from the film) one is down and unable to get up, one has shoulder broken, one bleeding at nose and mouth (internal injuries), two have outside of horns pulled off, one has ear torn off. There were two dead ones in the slaughterhouse and these will be taken in and butchered for dog food. This was one afternoon of 'Sport'—9 crippled and 3 outright killed in the arena.

In other states, young animals are used. The calf is put in a chute where he is subjected to an electric shock device, and his tail painfully twisted; when the gate is opened, the frightened animal dashes into the arena. A man is waiting on a horse to speedily rope and tie the calf, trying to beat the clock. When the calf is roped, the horse pulls back, which throws the calf off its feet and the rope tightens around the animal's neck, choking it.

The bucking horses exhibited at rodeos have a flank strap placed well to the rear around the flank that is pulled tightly when the rider gets on the horse. The horse comes out of the chute bucking violently. After the rider is thrown or time is called, pick-up men ride up to the horse and loosen the bucking strap. The humane officer of the Society for the Prevention of Cruelty to Animals of Luzerne County, Pennsylvania, used an original approach to terminate a bucking horse exhibition in 1958. The show advertised that the horses were very wild and were natural buckers. The humane officer said that if the horses were natural buckers, they did not need the bucking strap, and any person using a bucking strap would be arrested. The exhibitors did use the bucking strap and were arrested under the anti-cruelty laws of the state. There have been no more rodeos in that county.

In 1966, Ohio enacted legislation relative to the use of animals in exhibitions, shows, circuses, rodeos, or similar use. This law provides, in part:

No person shall directly or indirectly or by aiding, abetting, or permitting the doing thereof, put, place, fasten, use or fix upon or to any work animal used for a work purpose, twisted wire snaffles, spurs, bucking straps, flank straps, electric or other prods, or similar devices.

The commission or performance of any act prohibited by this section is the act of the owner of the work animal upon or to which such act was done. [Section 959.20]

The penalty for violating Section 959.20 is a fine of not more than \$1,000 and/or a sentence of imprisonment of not more than six months. [Sections 959.99, 2929.17]

However, in 1986, rodeo interests succeeded in overturning the prohibition of bucking straps.

The Baltimore City Code, Article 19, Section 27 prohibits the use of "curb bits, twisted wire, twisted wire snaffles, spurs, bucking straps, flank straps, and similar devices" on any horse being used for a "work purpose or for the performance of some work or labor, which includes showing or performing in any exhibition, show, circus, rodeo, or similar use."

In 1988, Rhode Island enacted a law to require a veterinarian selected by state humane organizations to be present at any rodeo. He has complete authority over the use and treatment of the animals.

CRUELTY OF A GENERAL NATURE WILD HORSES AND BURROS

Representatives of dog food manufacturers hunted and killed wild horses from airplanes and trucks on land belonging to the United States. Often the ani-

mals would be injured and left to die slowly from pain, thirst and hunger. Mrs. Velma Johnston, Reno, Nevada, known as "Wild Horse Annie," carried on a one-woman crusade in the State of Nevada to stop this cruelty. Her efforts brought national publicity on this cruelty, and Representative Walter S. Baring of Nevada introduced a bill in the House of Representatives to protect these wild horses. Due to the skillful leadership of Senator Mike Mansfield of Montana in the Senate, Public Law 86-234 was passed by the 86th Congress (73 Stat. 470, amended Chapter 3 of Title 18 United States Code) that prohibits the use of aircraft or motor vehicles to hunt certain wild horses or burros on land belonging to the United States. The law also made it unlawful to "pollute any watering hole on any of the public land or ranges for the purpose of trapping, killing, wounding, or maiming any of such animals. Violators are subject to a fine of not more than \$500, or imprisonment for not more than six months or both."

In 1971, President Richard Nixon signed into law a bill sponsored by Senator Henry Jackson to require the protection, management, and control of wild free-roaming horses and burros on public lands (Public Law 92-195). The law was based on the policy of Congress "that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the public lands." (16 U.S.C. Section 1331 *et seq.*)

The Forest Service, U. S. Department of Agriculture, and the Bureau of Land Management (BLM), U. S. Department of the Interior, were given authority to enforce the law on public lands. There was strong public pressure throughout the nation to protect these animals. Problems immediately arose in the enforcement of P.L. 92-195, however. The two government agencies did not receive appropriations adequate to carry out the mandates of Congress. Problems were almost insurmountable in the checkerboard patterns of public lands and private property. Many of the private lands had been acquired under homesteading policies. Water holes are scarce and mostly located on private lands. Ranchers had permitted the wild horses free access to the water when the numbers of wild horses were controlled by western interests, but the new law banned the hunting and roundup of wild horses on public lands by anyone other than the government departments controlling the animals.

P.L. 92-195 provides three methods of controlling the number of horses: (1) excess horses may be relocated on other areas of the public land; (2) they may be removed from the range and placed in the care of qualified individuals or organizations; and (3) excess animals may be destroyed in a humane manner.

Early in 1974, the New Mexico Livestock Board authorized a request to round up and dispose of 19 burros. The burros were rounded up and sold at public auction. When the BLM learned of this capture and sale, they requested the Board to return the burros to national resource lands as the animals were protected under the Wild Free-Roaming Horse and Burro Act. The Board refused.

In February 1975, the U. S. District Court for the District of New Mexico declared the Act was unconstitutional on the premise that the Act conflicted with the historical interpretation of the territorial clause and the traditional doc-

trines concerning wild animals. On March 28, 1975, an appeal was made by the Department of Justice to the Supreme Court.

The case was argued before the Supreme Court on March 23, 1976, and a decision handed down on June 17, 1976. The Supreme Court ruled that New Mexico was not supported in its claim that upholding the Wild Free-Roaming Horse and Burro Act would sanction "an Imperial intrusion" upon the state's sovereignty. The Court also ruled that Congress has the power to protect wildlife on public lands, state law notwithstanding (*Kleppe v. New Mexico*, 429 U. S. 873 (1976)). The decision of the Supreme Court was that state law does not overrule federal law.

Public Law 94-579 (The Organic Act), approved by President Gerald Ford, October 21, 1976, was passed to establish land policy; to establish guidelines for its administration; to provide for "the management, protection, development, and enhancement of the public lands; and for other purposes." The Director of the Bureau of Land Management stated, "this law ushers in a new era for public land management, one that will call on the highest degree of professionalism, enthusiasm, and increased sensitivity to the public interest on the part of bureau employees."

Despite this accolade and the Director's expressed hopes, BLM has, with Congress' acquiescence, consistently acted to decrease the numbers of wild-roaming horses and burros. It has frequently appeared that instead of serving the public interest, which has always been with the preservation of wild horses and burros, Bureau employees have sided with cattle and sheep ranchers who claim that wild horses are encroaching on their animals' grazing space.

Of the many provisions of the Act, Section 9 of Section 404, "management of certain horses and burros," is of particular interest. It states, in part, that in "administering this Act, the Secretary may use or contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. Such use shall be in accordance with humane procedures prescribed by the Secretary."

The regulations containing humane standards to be met in the gathering process were approved in the Spring of 1977. The cruelties inflicted on the wild equines in the past are prohibited in both the Act and by regulation. The National Wild Horse and Burro Advisory Board will be kept advised of BLM management practices of wild equines and will be given an opportunity to recommend or criticize such roundups.

In 1985, at BLM's request, Congress appropriated \$16.7 million for the Fiscal Year 1986 budget of the Wild Horse and Burro Act. Most of these additional funds were used to finance the removal of over 17,000 wild horses and burros from public lands and the costs of holding them while they await adoption. Originally, \$25 million had been appropriated during a Senate Appropriations Committee business meeting without the opportunity for nor benefit of public hearings or debate by Members of Congress. The House-Senate Conference Committee reduced this appropriation to approximately \$17 million.

In 1986, the House Appropriations bill for the Department of the Interior contained zero funding for the roundup of wild horses and burros. On the Sen-

ate side, however, \$2.9 million over BLM's request of \$15.2 million was added for Fiscal Year 1987. The Senate Appropriations bill for the Department of the Interior thus earmarked \$18.1 million for the administration of the Act. The Conference Committee compromised at \$17,936,000. In 1988, 8,857 horses and burros were rounded up. The appropriations were cut somewhat in 1988 to \$14.7 million.

Because a large number of the horses and burros already captured remain unadopted, additional horses and burros rounded up as a result of the increased appropriations have caused a glut of wild horses and burros awaiting adoption. At the end of September 1985, there were estimated to be 10,000 wild horses and burros awaiting adoption. Despite a prohibition in the Wild Horse and Burro Act against sale, several attempts have been made in recent years to amend the Act to provide BLM with sale authority. As justification for this authority, proponents cite the increasing numbers of animals awaiting adoption, a "crisis" that increased authorization for roundups has caused. A sale provision will either directly or indirectly place horses and burros into the stream of commerce leading to sale for slaughter.

Whether an overpopulation even exists is a source of controversy. At the turn of the century, over two million horses ranged throughout the West. Now there are only 46,500 wild horses and burros remaining, fewer than existed at the time the Wild Horse and Burro Act was passed. Ranchers who graze their livestock on public land claim that the horses and burros pose a threat to their animals' grazing land. A study of the free-roaming equine population reveals that these concerns may be unfounded. A 1983 National Academy of Sciences' study showed that wild horses and burros are not responsible for overgrazing on our public lands. In 1980-81, BLM determined that there were 4,309,820 private livestock on BLM land compared with 64,545 horses and burros. Furthermore, in Fiscal Year 1983, livestock were found to consume 70% of grazing resources on public lands compared with wildlife (deer, antelope, etc.) who consumed 25.5%. Wild horses and burros were found to consume 4.5% of public land grazing resources.

In 1985, Nevada enacted a statute entitled "Preservation of Wild Horses." Pursuant to that statute, a Commission for the Preservation of Wild Horses was established. The primary duty of the Commission is to preserve the herds of wild horses in Nevada; this goal is to be accomplished by developing projects to study wild horses and their habitat, monitor the activities of state and federal agencies, including the military, that affect wild horses, and generally promote the management and protection of wild horses (Nevada Revised Statutes Section 504.430-490).

On July 5, 1989, the Governor of Nevada signed into law Senate Bill 446, making it a felony to shoot a wild horse and giving wild horse advocates increased influence on the state's Commission for the Preservation of Wild Horses. Formerly a three-member panel, the Commission will now have five members, including a representative from the Society for the Prevention of Cruelty to Animals and one member from the general public.

Conditions for wild horses being held for adoption are generally poor. Nevertheless, the cost to the government is substantial. The government has been slow to adopt or even to test fertility control methods for wild horses. However, in 1987 a project conducted by the University of Minnesota was

funded by the Bureau of Land Management. The selection of this project has been sharply questioned, since methods less traumatic for the animals, though available, were rejected. The Minnesota scientists conducted field surgery on the mares and placed heavy collars on a number of them. A series of deaths occurred: First, because the dazed animals had been brought from a distance and were unable to find their way back to water, a number of them died of thirst. A second wave of deaths occurred when the collars, which had been too tightly affixed, ate into the necks of the animals, causing death from infection.

In 1989, Les Sweeney courageously issued a memo strongly recommending that the disruptive helicopter chases under the University of Minnesota project be stopped before March 1, 1990, the beginning of the foaling season. The university researchers swooped down on bands of horses in order to read the small numbers they placed on the collars. The horses are terrorized and start running as soon as they hear a helicopter in the distance. Newborn foals cannot keep up with their frenzied mothers, and in the rough country are never reunited, but die of starvation. BLM's own rules prohibit use of helicopters between March and June. Intervention by the Governor of Nevada, together with Congressional inquiries, brought a halt to the fly-overs just before the foaling season.

The cruel bungling of the University of Minnesota project should not reflect upon the principle of birth control for wild horses. Rather, BLM and the University of Minnesota must shoulder the blame, and properly designed and humanely conducted fertility control should be pursued so that wild horses can continue to live in freedom and, when necessary, their numbers can be held in check without impinging on the gene pool of these splendid animals.

ABANDONMENT AND SALE OF OLD HORSES OR HORSES UNFIT FOR WORK

One of the most heartless cruelties man inflicts on an old horse is to abandon it or sell it at public auction or to a person ignorant of its care when it has become infirm or unfit for any useful purpose. Washington specifically makes it a misdemeanor for every owner, driver, or possessor of any old, maimed, or diseased horse to allow the horse to go loose for more than three hours without proper care and attention (Section 16.52.110). When sold at a public auction, the horse may be purchased by the operator of a dirty, poorly run stable, where the horse is rented for a cheap hourly rate, overworked, and often is brought back to the stable to no food. When the operator has taken the last ounce of strength from the animal and has enough animals to make a load, he will haul the animals to a killer for dog food. Sometimes these poor old horses are rented out, then they are bled for laboratory use, and when they are ready to go down, they are hauled away to the killer. Well-bred show and exhibition animals that have had good care are often sold to any buyer so that their owners may acquire younger, more promising stock to suit their purpose.

Riding or working of horses unfit for labor is a violation of the general anti-cruelty statutes³ and, in many states, of laws specifically prohibiting the riding or driving of disabled horses. Laws prohibiting the sale of such animals occur in several states, including New Jersey, where it is unlawful to "receive or offer for

sale a horse which by reason of disability, disease or lameness, or any other cause, could not be worked without violating the provisions" of the anti-cruelty act. (Prohibited by Section 4:22-26(d) that imposes a fine of up to \$250.00, and by Section 4:22-21 that imposes a fine of not less than \$10.00 nor more than \$100 and/or a sentence of imprisonment not exceeding six months.)

SHELTER

The general anti-cruelty laws of most states require shelter for animals (see Chapter I). Several states have additional laws requiring protection from the weather with specific provisions benefiting horses. For example, Rhode Island and Minnesota prohibit the shearing of horses in winter. Rhode Island requires shelter which, at a minimum, must provide a roof and three solid sides between the months of November and May. Minnesota provides that every person having the custody of any animal that has had its hair removed by clipping or shearing cannot (within 60 days after such clipping or shearing, and between November 1 and May 1) let such animal stand on a road, street, or other unsheltered place, without being blanketed (Section 343.26). Violation is a misdemeanor, for which the penalty is a fine of up to \$700 and/or imprisonment up to 90 days. Further, the sheriff, constable, village marshal, police officer, or any agent of the Minnesota Society or other Society for the Prevention of Cruelty to Animals, may remove, shelter, and care for any animal found exposed to the weather and not properly blanketed. The above officers may shelter and care for an animal that remains more than one hour without attention in cold or inclement weather (Section 343.29).

Rhode Island's law provides:

No person shall cut, clip or shear the hair or coating of any horse between October 15th and March 1st unless the necessity therefor shall have been certified in writing and filed with the Rhode Island Society for the Prevention of Cruelty to Animals by a licensed graduate veterinarian. Any person violating any provisions of this section shall, for every such offense, be imprisoned for not exceeding ten (10) days or be fined not exceeding fifty dollars (\$50.00) or be both imprisoned and fined as aforesaid.

The anti-cruelty laws of Nebraska once made it unlawful to allow a horse, mule, pony, or team of horses or mules to stand tied upon the street or public highway for two hours at a time in cold or stormy weather to the injury of such animal or animals. The statute provided for a fine of not less than \$5.00 nor more than \$50.00 for a violation of the statute. Although this specific statute was repealed, the conduct proscribed above would be prohibited by Nebraska's general anti-cruelty statute (Section 28-1001).

Previously, South Dakota prohibited any person from "wilfully or negligently maltreating or abusing any domestic animal by exposure to heat or cold . . . or by leaving hitched in the open air during cold weather or storm, or in the nighttime." This statute was repealed in 1977 by SL, ch. 190, Sec. 450, 451. Again, such conduct would probably be in violation of South Dakota's general anti-cruelty statute.

RIDING SCHOOLS—HIRING OF HORSES

In 1943 the State of Rhode Island established a Board of Inspectors that includes an agent for the Rhode Island Society for the Prevention of Cruelty to Animals, a duly qualified and licensed veterinarian, and an owner or operator of a riding school in the state (Section 5-13-3). This Board makes rules and regulations for the operation of riding schools. Applicants desiring a license to operate a riding school must file an application with the Board, and the Board conducts an examination, either oral or written, to determine the qualifications of such applicant to operate a riding school.

The license may be renewed from year to year by payment of the prescribed fee. No license may be transferred or assigned to another person. The license may be revoked or suspended by the Board, after a hearing, if the operator (a) fails to provide suitable food, water, and shelter for the horses under his control; (b) maintains an unsanitary or unfit stable; (c) fails to provide suitable saddles, bridles, harnesses, and other tack or equipment; (d) lets or uses unfit horses for riding or driving purposes; (e) permits horses to work more than eight hours in any consecutive twenty-four hours; (f) refuses to allow a member of the Board to enter and inspect the premises upon which a riding school is being operated, or obstructs any member of the Board in performance of his duties under this law; (g) commits a cruel act prohibited by statute; (h) acts against the welfare of horses under his control that shows that the operator is an unfit person to operate a riding school (Section 5-13-8). Similar laws were enacted in Maryland in 1968 (see Agriculture Code, Article 2, Section 701 *et seq.*) and in Michigan in 1974. Michigan's law governs riding stables and sales barns (Section 12.417 *et seq.*).

Massachusetts also requires the licensing of riding stables. Licensees must comply with standards for humane care, including requirements pertaining to disease prevention, waste disposal, maintaining the stable in a sanitary condition, adequate food, water and shelter, and standards for determining when an animal is unfit for use (Article 128, Section 2B).

Pennsylvania limits the hours of labor (including driving, leading, riding or working, or causing or allowing it to be done) of horses and other animals to not more than 15 hours in any 24-hour period, or more than 90 hours in any one week (Section 18-5511). A person who violates this section is subject to a fine of up to \$300 (Section 18-1101) and/or imprisonment for not more than 90 days (Section 18-1105).

Arizona prohibited a person who hired an animal from unnecessarily over-driving or misusing it or permitting another person to subject the animal to ill-treatment. The statute provided for a fine of up to \$300 and/or imprisonment of up to six months. This section was repealed by Laws 1977, ch. 142, Sec. 30, effective October 1, 1978.

The South Dakota Code, Section 40-1-4, made it unlawful for any person "having charge or custody of any animal as the owner or otherwise to ride, drive or otherwise use any galled, lame, or disabled animal, or to use yoke or harness that chafes or galls it or to use check reins or any part of its harness too tight for its comfort, or to drive, ride or work any animal when it has been used six hours consecutively without food." This Section was repealed by SL 1977, ch. 190, Section 442, 443.

A similar law appears in the Washington anti-cruelty code (Section 16.52.070). That section provides, "... and whoever having charge or custody of any animal, either as owner or otherwise . . . who wilfully and unreasonably drives the same when unfit for labor or with yoke or harness that chafes or galls it, or check rein or any part of its harness too tight for its comfort . . . shall be guilty of a misdemeanor." A violation of that section carries a penalty of a fine not exceeding \$1,000 and/or confinement in the county jail for not more than 90 days (Section 16.50.170).

Wyoming specifically provides that

... any person who takes into his possession, or hires or loans any property of any livery stable keeper, or any other person, and while the property is in his custody shall wilfully, or with gross neglect or culpable carelessness damage or destroy the property, or permit the property to be damaged or destroyed, or shall by wilful or gross neglect cause the sickness, injury or death of any animal received into his possession, shall be fined not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), or imprisoned not more than sixty (60) days, or both. [Section 11-30-112]

In 1956, the Virginia Legislature delegated to the governing body of any county the authority by ordinance to provide for the licensing, inspection, and regulation of horse riding schools for the purpose of preventing cruelty to animals in violation of the Virginia general anti-cruelty laws.

In 1988, California mandated humane standards on keeping horses for hire, with a penalty of \$100 per violation per day.

Even though a state might not have a specific statute regulating treatment of horses by a riding stable, such conduct would probably be covered by a state's general anti-cruelty law. Many of those laws generally prohibit the overworking or overdriving of animals.

TAKING ILL-TREATED AND ABANDONED ANIMALS

In 1963, the humane officer of the Animal Welfare League of Arlington, Virginia, under a court request, took possession of six Thoroughbreds that were being slowly starved to death and deprived of necessary water by a sadistic owner. This man had twice before been convicted of cruelty to animals in the State of Maryland and was banned from a race track because of this cruelty. When the humane officer took two horse trailers to move the animals, the lawyer representing the accused and his client went to the stable to prevent the seizure of the animals. The lawyer read from the then existing Virginia Code of Laws, Section 18.1-223, which set forth the conditions under which officers may take charge of ill-treated animals, accenting the part that states "that the society may provide for such animal until the owner takes charge of same." The lawyer was informed that this law was not being invoked but the animals were taken pursuant to a court order.

The accused was found guilty of the charge of cruelty to animals and was fined \$250.00. Before the final settlement of this case, the Arlington Animal Welfare League had incurred expenses of about \$750.00. Upon appeal to a higher court, the defendant admitted his guilt, but told the court that he wanted

his horses back. There was no provision in the law at that time for the court to authorize the League to dispose of the animals, after the man had paid his penalty, and the owner paid the expenses and took his horses. Even a person mentally ill or repeatedly convicted of sadistic cruelty could reclaim his animals under the old law. The League initiated action to have the law amended pertaining to the taking of ill-treated or abandoned animals. The amended law has proven to be invaluable in handling abandoned and ill-treated animals. It appears to be cumbersome, but to omit notice, or the petition to the court, could make the law unconstitutional. This amendment became effective July 1, 1964, and has been used successfully many times.

Section 29-213.84 of the Code of Virginia reads, in part:

Any such officer or agent, or any animal warden as defined in Section 29-213.36 of this Code, may lawfully take charge of any animal found abandoned, neglected, or cruelly treated or unfit for use, and shall forthwith petition any general district court in the city or county, wherein such animal is found, for a hearing which shall be in the nature of a criminal proceeding. The hearing shall be set not more than ten days from the date of the seizure of such animal to determine whether the owner, if known, is able to adequately provide for such animal and is a fit person to own such animal . . .

If the owner is adjudged by the court unable to adequately provide for such animal or not a fit person to own such animal, then the court shall order that such animal: (i) be sold by the officer or agent, or animal warden, at public auction, (ii) placed for adoption in a suitable home, or (iii) humanely destroyed as deemed proper by the court. In no case shall the person adjudged unable to adequately provide for such animal or adjudged an unfit person to own such animal be allowed to purchase the animal at the sale.

The court in determining whether the owner is able to adequately provide for such animal or is a fit person to own such animal may take into consideration among other things the owner's past record of convictions under this chapter or one similar thereto prohibiting cruelty to animals and the owner's mental and physical condition . . .

In 1987, Texas passed a law designed to provide prompt action on crises such as the 1984 horse starvation case involving hundreds of animals bought by incompetent speculators. Most of the horses died.

TEETH

The age of the horse can be determined by its teeth. After nine years of age, it is more of a guess based upon experience in judging the angle and shape of the teeth. In the State of Alabama, any person "burning, cauterizing, or mechanically changing the natural teeth of any horse, mule, or other soliped in order to fraudulently make such animal appear younger than the animal really is, is guilty of a misdemeanor" (Section 3-1-23). Possession of any animal whose teeth have been burned or mechanically changed is *prima facie* evidence of intent to violate this section. The testimony of a veterinarian is required to obtain a conviction under this section (Section 3-1-24). The penalty upon con-

viction is a fine not exceeding \$500 and/or a sentence of imprisonment not exceeding six months.

It is also unlawful to transport or move into Alabama any horse, mule, or other soliped that has had his or her teeth changed to make the animal appear younger (Section 3-1-23). A violation is a misdemeanor. A comparable statute exists in South Carolina (Section 47-9-40).

TRANSPORTATION

The general anti-cruelty law of each state makes it unlawful to transport horses (and other animals) in a cruel manner. In addition, many states have specific laws on the humane transportation of animals in the anti-cruelty code and/or in laws governing humane transport of livestock. The State of Minnesota has a very good law. Chapter 343, Section 24 of the code provides that animals must be carried on a vehicle in suitable racks, cars, crates, or cages, in which such animals can both stand and lie down during transportation. The animal may not be transported with feet or legs tied together, crowded without sufficient space to stand or so as to overlie, crush, wound or kill each other, or in any other cruel or inhumane manner. Every person or corporation engaged in transporting livestock may not detain them in cars or compartments for more than 28 consecutive hours without unloading them in a humane manner for rest, water, and feeding for a period of not less than five consecutive hours (unless prevented by storm or unavoidable cause that cannot be anticipated or avoided by the exercise of due diligence and foresight). Violation is a misdemeanor, for which the penalty is imprisonment not exceeding 90 days and/or a fine not exceeding \$700.00 (Section 609.03).

The federal law (Title 45, Chapter 4) known as the "Twenty-Eight Hour Law" covers the interstate transportation of livestock by railroad carrier (see Chapter II). Humane organizations have been trying unsuccessfully for years to include trucks and vans in the federal law, as trucking of animals has been increasing in volume over the years. At the present time, cruelty in the trucking of livestock is subject to the anti-cruelty or humane transport laws of the state through which the truck is passing (see Appendix).

At a minimum, transportation causes extreme stress to animals. An animal being transported by truck is never able to relax, as the driver is constantly being forced to brake his truck in traffic, stop at traffic lights, and swing from one traffic lane to another. The animal on a moving truck becomes very tired long before it arrives at its destination. Also, the fumes from the exhaust are sickening to the animal and add to its exhaustion. Often when trucked animals arrive at their destination, they are black and staggering from the fumes of the exhaust.

In particular, horses suffer tremendously from being transported to slaughter. All breeds and grades of horses, pregnant mares, mixed loads of old, sick, and young horses are shipped every day by U. S. traders within the United States and Canada for slaughter. These animals are subjected to barbaric cruelty in shipment, and they often arrive injured, bleeding, crippled, and in intense pain from being brutally overcrowded in trucks. Many loads are on the road from three to four days without food, water, or rest, and the animals are weak from hunger, thirst, and exhaustion.

Typically, horses and ponies are loaded in an inhumane manner and are transported in two-tiered carriers designed for smaller farm animals on long journeys across several state lines. Unlike animals travelling by air, horses travelling by truck are not protected by any comprehensive legislation that will ensure their welfare as they travel from state to state. For instance, there is currently no law that limits the number of horses that can be hauled on one truck, prevents horses from being transported during sleet, snow, freezing temperatures, or extreme heat and humidity, or prohibits horses from being left on trucks while the drivers stop at additional auctions. This lack of legislation has led to the following real-life incidents.

On October 7, 1985, a trailer and its cargo of 42 horses originated at the C. J. Schmitt & Sons livestock auction farm in Plain, Wisconsin, and was headed on a nine-hour trip where the horses were to be killed at a slaughterhouse in Sarnia, Ontario, Canada. On the highway, at approximately 3:00 a.m., a section of the top tier collapsed within the trailer, dumping horses onto the others below. When the driver pulled over to report this to his employer, his boss told him to drive on. When the driver glanced at his side-view mirror at 5:00 a.m. in Romulus, Michigan, he saw horses sticking out of the trailer being dragged and scattered along the highway. Not only had the top tier collapsed, but by this point the entire floor had given way. The injured horses were euthanized, but the ones who survived were carried on to slaughter by a new truck sent down from the slaughterhouse in Canada. A happy note: One pony, who eluded police and humane society workers for days, was adopted to a permanent home. (Adapted from a story appearing in *Animals' Agenda* magazine, March 1986.)

In another incident, in February 1986, a horse owner in Bakersfield, California, had arranged for one of her Standardbred horses to be sold at what she believed to be a respectable "non-killer" sale along with 29 other horses. She traced all 30 horses one week later to a slaughterhouse in Texas, over 1,000 miles away. An eyewitness at the sale described what happened to these horses after they were sold:

They were cruelly herded into a cramped two-tiered undivided cattle truck and then subjected to injury upon injury as they climbed or fell on top of each other in the ensuing panic. Those shod had the worst time of it as their metal shoes slid uncontrollably upon hitting the slick flooring. Unaccustomed to such treatment, the majority screamed out in fear as they beheld the increasing chaos going on before them.

When this brave woman and her veterinarian husband travelled to the slaughterhouse, they found evidence of just how grueling the trip had been for the horses. Each horse's head and many horses' backs had been gashed or scraped by the inside of the trailers. Almost every horse had a temperature of 103 degrees. One horse suffered so much from the trip that she had to be euthanized. One five-year-old mare, heavy in foal, tore away part of her leg and hoof in loading, but was not put out of her misery until one week later when slaughterhouse personnel noticed that she wasn't eating.

A federal law governing the interstate shipment of livestock by truck is badly needed to stop the unnecessary suffering of animals moving across state

lines and from the United States to Canada. At present, only a few states have enacted legislation to deal with this problem.

The State of Connecticut, the third largest killer of horses in the United States, has responded to the humane problems in this fast-growing killer market by authorizing its Department of Agriculture to issue regulations covering the transportation of equines (Section 22-415 of the Connecticut Law Code and Public Act 75-589 of the 1975 General Assembly). These rules became effective December 8, 1976.

Connecticut's regulations state, in part:

Section 22-415-2. *Prohibitions and enforcement.*

(a) No person shall transport horses in any vehicle for more than eighteen (18) hours unless: (1) Within such vehicle the horses have enough space and opportunity for rest and are supplied with proper food and drink; or (2) The horses are unloaded for at least five (5) consecutive hours, unless prevented by storm or accidental causes.

(b) Horses unloaded pursuant to (a) (2) shall be properly fed, watered and sheltered during the time they are unloaded by the owner or person having custody during transportation.

(c) Any duly authorized police officer or humane agent may feed, water and shelter horses which are neglected by the owner or person having custody during transportation; such feeding, watering or sheltering shall be at the expense of the owner or person having custody during transportation.

(d) The use of double-deck or possum-belly vehicles to transport horses is strictly prohibited, unless the same is used pursuant to 22-415-3.

Section 22-415-3. *Construction and dimensions of vehicles.*

Any vehicle for the transportation of equines shall meet the following standards:

(1) The interiors of compartments containing horses are to be of smooth construction with no protruding or sharp objects.

(2) The floors are to be of non-skid construction or a non-skid material is to be placed on the floor. A non-skid floor shall mean:

(a) Non-skid rubber or like material secured to the floor; or
(b) A reasonable amount of abrasive material—these materials shall include but are not limited to sand, clay, sawdust; or (c) Metal grade floors with dull surfaces not to protrude or injure hooves but with sufficient base to prohibit sliding.

(3) There shall be adequate ventilation in all closed trailers. Any truck having a slatted body shall be deemed to have sufficient ventilation.

(4) Sturdy partitions are to be provided approximately every ten (10) feet inside vehicle.⁴

(5) Doorways used by horses are to be of adequate height to allow twelve (12) inches above the withers and to allow the largest horse to pass through without injury.

(6) A minimum of twelve (12) inches must be allowed between the withers of the largest horse and the structure above the horse while the horse is in a natural standing position.

(7) If the vertical distance from the trailer to the unloading area is greater than eighteen (18) inches, ramps for loading and unloading are to be provided and are to be constructed such that they provide safe footing for horses.

Section 22-415-4. *Other restrictions.*

(a) Injured or handicapped horses shall not be loaded in the same compartment with healthy horses.

(b) Ponies or young horses shall not be loaded in the same compartment with larger and mature horses except as provided in (c) below.

(c) Dams with their own and other sucklings shall be transported in the same compartment and separate from other horses.⁵

California has a specific statute protecting horses travelling to slaughter. Under that statute, anyone failing to provide such horses with adequate food and water shall be guilty of cruelty to animals (Cal. Agriculture Code Sec. 19348). The Massachusetts statute is more detailed; it specifically prohibits the "possum-belly," double-deck cattle trailers from being used to transport horses to slaughter and requires detailed licensing of drivers and of the vehicles that are used. Penalties are a fine of \$100 for the first offense, and for any subsequent offense a fine of not more than \$500 and/or imprisonment for not more than two and one-half years (Massachusetts General Law Annot. 129, Section 45-48).

New York has enacted a detailed statute that sets forth the requirements of vehicles used. It specifies that vehicles must have smooth interiors, non-skid floors, adequate ventilation and insulation, minimum interior height and space. Like the Massachusetts statute, it provides for a first offense fine of \$100 and a subsequent offense fine of \$500 and/or a one-year term of imprisonment (New York Agriculture and Markets Law, Section 359-a).

Virginia regulations governing transportation of horses, effective 1987, are similar to those of New York and Massachusetts (Section 29-213.37 to 3.1-796.67 of the Code of Virginia of 1950 as amended).

POSSESSION AND SALE OF FOALS

In New Hampshire it is a misdemeanor to have in possession or sell a colt under 90 days old that is not being nursed by its dam unless the colt was born in New Hampshire and its dam died in New Hampshire before the colt became 90 days old (Section 441:4-a). Whoever violates this law may be fined up to \$1,000 and/or imprisoned up to one year (Section 651:2).

In 1969, Massachusetts (Section 272-78A) and Vermont (Title 6, Article 903) enacted laws prohibiting the sale or other disposition of colts under five and six months of age, respectively. Vermont's law states:

A person shall not buy, sell, transfer ownership of, or transport from without the state any equine foal less than six months old, unless such foal is naturally weaned or unless for immediate slaughter. For the purposes of this section, a colt shall be considered 'naturally weaned' if it is capable of subsisting apart from its dam. [Title 6, Article 905]

The penalty for violating the Vermont law is a fine of up to \$100. In Massachusetts, a violator is subject to a fine of up to \$100 or imprisonment for up to six months.

EXPORT BY SEA OF HORSES FOR SLAUGHTER PROHIBITED

At one time it was common practice to ship United States horses live by sea for slaughter in foreign countries. Horses sent overseas on these journeys were subjected to tremendous suffering from overcrowding and dehydration. Additionally, the rocking movement of the ship over the choppy seas caused motion sickness, falls, and trampling. Luckily, these atrocities were lessened when the Senate amended the Export Administration Act to include Section 109 (P.L. 95-52; 91 Stat. 235). That section provided:

... no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue rules and regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter. [Sec. 46, U. S. Code 466 (a) and (b)]

Senator Harrison Williams offered this amendment on the Senate floor, and it was adopted.

In 1985 when Congress reauthorized and amended the Export Administration Act of 1979, this prohibition was made part of United States Code, Title 46, which governs shipping. That Act now provides:

466c. *Export of horses*

(a) Restriction on export of horses

Notwithstanding any other provision of law, no horse may be exported by sea from the United States, or any of its territories or possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under subsection (b) of this section.

(b) Granting of waivers

The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

(c) Penalties

(1) Criminal penalty. Any person who knowingly violates this section or any regulation, order, or license issued under this section shall be fined not more than 5 times the value of the consignment of horses involved or \$50,000, whichever is greater, or imprisoned not more than 5 years, or both.

(2) Civil penalty. The Secretary of Commerce, after providing notice and an opportunity for an agency hearing on the record, may impose a civil penalty of not to exceed \$10,000 for each violation of this section or any regulation, order, or license issued under this section, either in addition to or in lieu of any other liability or penalty which may be imposed.

HORSE RACING

Horse racing is allowed in 43 states, although 9 states do not actually conduct racing at the present time. Instead, some permit betting on horse races which take place in another state.

In states where horse racing is legal, the laws and rules are under the jurisdiction of the State Racing Commission. The rules governing racing are many and complex. To obtain information relating to racing, one may write to the particular State Racing Commission of interest. Stringent laws govern doping and certain other cruelties; however, race horses are often worked too hard, too young, before their bones are developed sufficiently to withstand the pounding on their legs. Many race horses are broken down before they have attained their full growth.

The administration of narcotics to racing horses has grown to be a very serious problem and the subject of restrictive state legislation. Attempts to curb this vicious practice have not been successful. In fact, the abuse has grown and is now also a very serious problem at horse shows. The American Horse Shows Association (AHSA) in its rule book bans the entry of any horse in any AHSA-recognized horse show if drugs or any forbidden substance have been used on the horse.

In 1977, Indiana enacted legislation providing that anyone who administers a controlled substance to any horse within twenty-four hours prior to a race or injures or otherwise affects the horse or possesses an electrical, mechanical, or other appliance, other than a whip or spur, that can be used during the race to affect the horse, shall, on conviction, be fined not more than \$1,000 and imprisoned up to 180 days (Section 15-5-5.2-3). Alternatively, a person convicted of this section could be fined up to twice his pecuniary gain from committing the

offense (Section 35.50-5-2). Massachusetts (see Appendix) and Wisconsin (§95.01) enacted similar statutes, but they are restricted to prohibiting the administration of drugs to horses in weight pulling contests.

SUMMARY

Specific laws enacted to control abuses prevalent in certain areas have been quoted above. However, the general anti-cruelty laws of every state in the country prohibit beating, overworking, overriding, overdriving, torture, torment, and neglect. In specific statutes, the commission or omission of the statute is *prima facie* evidence of intent to violate the act.

There are many areas of cruelty, such as auction sales, riding stables, and lack of shelter, that should be covered by law officers, but humane societies do not always exist near rural and suburban areas where the need is great, and there is a serious shortage of investigators with proper experience and training to be effective.

Areas that are very hard to control involve the socially accepted cruelties, generally participated in or supported by influential people. These ill-treatments in horse shows, races, or rodeos are just as painful to the animal as individual cruelty. Dr. Albert Schweitzer wisely stated that "The thinking man must therefore oppose all cruel customs, no matter how deep-rooted in tradition and surrounded by a halo."

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1. Throughout the chapter, the "Section" number identifies the title, chapter, or article and section number of the statute referred to in the state's law code.
 2. Only \$161,000 was appropriated for Fiscal Year 1990; the Animal and Plant Health Inspection Service has requested an appropriation of \$359,000 for Fiscal Year 1991.
 3. See Chapter I.
 4. This is a very important provision because horses can be injured at sudden stops.
 5. More information can be obtained from the Connecticut Department of Agriculture.

Chapter IX

FIGHTING AND BAITING

by Christine Stevens and Diane Halverson

Fighting to the death between animals, or men and animals, has appealed to some segments of the population for centuries. State laws prohibiting such activities in the United States for the past fifty to one hundred years have not succeeded in eliminating them.

DOGFIGHTING AND COCKFIGHTING

Raids by police and humane organizations on cockfights and dogfights force the enterprises to operate in secret. However, their continued popularity and the local interest in spectacles such as "coon-on-a-log" contests, which frankly pander to the enjoyment of witnessing pain and fear, demonstrate an element of ferocity in some human beings against which animals must have protection.

In 1974 Congressman Thomas Foley sought to give animals that protection. He held hearings at which revelations on the dogfighting racket, operating interstate and involving heavy gambling, were spread on the record. Films taken by an undercover agent showed the gruesome "sport" in sickening detail. There was strong public demand for passage of the proposed amendments to the Animal Welfare Act, but because of the pressures of adjournment, the Foley bill was not acted on by the 93rd Congress. Reintroduced in 1975, it became law April 22, 1976.¹ The animal fighting provisions² contained in Section 26 of the Act make violators subject to a fine of up to \$5,000 and/or imprisonment up to one year for any of the following:

- 1) knowingly sponsoring or exhibiting an animal in a fighting venture for which the animal was moved in interstate or foreign commerce;
- 2) buying, selling, transporting, delivering or receiving such an animal;
- 3) using the U. S. mails, or telegraph, telephone, radio or television operating in interstate or foreign commerce to promote or further an animal fighting venture.

The Secretary of Agriculture, who is charged with enforcing all provisions of the Animal Welfare Act, is authorized to make investigations and to enlist the assistance of the Federal Bureau of Investigation, the Treasury and other federal, state or local law enforcement agencies.

With respect to gamecocks, the provisions apply only if the fight violates state law. Shipment of game fowl for breeding purposes is permitted, and game fowl publications are unaffected unless they advertise a fight in a state which prohibits cockfights. These modified provisions were the result of the Senate-

COCKFIGHTING STATE LAWS*

<i>State</i>	<i>Specifically Prohibits Cockfighting</i>	<i>Prohibits Possession</i>	<i>Prohibits Being A Spectator</i>	<i>Warrantless Arrests Allowed</i>	<i>Fighting Cocks Is A Felony</i>
Alabama	YES	no	no	no	no
Alaska	YES	YES	YES	no	YES
Arizona	no	no	no	no	no
Arkansas	YES†	no	no	no	no
California	YES	YES	YES	YES	no
Colorado	YES	no	no	no	no
Connecticut	YES	no	YES	no	no
Delaware	YES	no	YES	no	no
Florida	YES	no	YES	no	YES
Georgia	YES	no	no	no	no
Hawaii	YES	no	no	no	no
Idaho	YES	no	YES	YES	no
Illinois	YES	YES	YES	no	no
Indiana	YES	YES	YES	YES	YES
Iowa	YES	no	no	no	no
Kansas	YES†	no	no	no	no
Kentucky	YES	no	YES	no	no
Louisiana	no	no	no	no	no
Maine	YES	YES	YES	YES	YES
Maryland	YES	no	no	no	no
Massachusetts	YES	YES	YES	YES	YES
Michigan	YES	YES	YES	no	YES
Minnesota	YES	YES	YES	no	YES
Mississippi	YES	no	no	no	no
Missouri	no‡	no	no	no	no
Montana	YES	YES	no	no	YES
Nebraska	YES	YES	YES	no	no
Nevada	YES	no	YES	no	no
New Hampshire	YES	YES	YES	no	no
New Jersey	YES	YES	YES	YES	YES
New Mexico	no	no	no	no	no
New York	YES	YES	YES	no	YES
North Carolina	YES	no	YES	no	no
North Dakota	YES	YES	YES	no	YES
Ohio	YES	YES	YES	YES	no
Oklahoma	no	no	no	no	no
Oregon	YES	YES	YES	YES	no
Pennsylvania	YES	YES	YES	no	YES
Rhode Island	YES	YES	YES	YES	YES
South Carolina	YES	no	YES	no	no
South Dakota	YES	YES	YES	YES	no
Tennessee	YES	YES	YES	no	YES
Texas	YES	YES	no	no	no
Utah	YES	YES	YES	no	no
Vermont	YES	no	YES	YES	no
Virginia	YES#	no	no	no	no
Washington	YES	YES	YES	YES	no
West Virginia	YES	YES	YES	YES	no
Wisconsin	YES	YES	YES	no	YES
Wyoming	YES	YES	YES	no	YES
STATE	YES	45	26	33	13
TOTALS	NO	5	24	17	37

† While it is not specifically prohibited by state law, it is possible to prosecute cockfighting under the general anti-cruelty statute.

‡ Statute specifically prohibiting cockfighting held unconstitutional by Supreme Court of Missouri. State officials say it is still legal.

While it is not specifically prohibited by state law, it is possible to prosecute cockfighting under the general anti-cruelty statute, as well as other statutes addressing cockfighting.

*Charts courtesy of the Humane Society of the United States.

House Conference. The Senate bill, S. 1941, introduced by Senator Lowell Weicker, addressed itself entirely to reform of animal transportation. The Foley bill also included the anti-animal-fighting provisions. As introduced, only mammals were covered, but during the mark-up of the bill in the House Agriculture Committee, Congressman John Krebs proposed an extension to cover birds as well. A series of close votes, both in Committee and on the House floor, created a strange coalition of Members who strongly opposed cockfights, and of other Members, led by Congressman Steven Symms, who hoped to kill the anti-dogfight provisions or even the entire bill by including the more controversial anti-cockfighting provisions in the bill reported to the full House of Representatives. Congressman Symms voted three proxies in Committee which provided the majority that led to inclusion of the anti-cockfighting provisions in the bill reported to the full House of Representatives. Ironically, without these votes, the prohibitions would have been limited to fights between mammals.

The Senate Conferees adopted the House-passed anti-dogfight provisions, but they insisted on modification of those relating to cockfights so that these are tied to existing state law.

While dogfighting is illegal in every state, cockfighting is not prohibited in Arizona, Louisiana, Missouri, New Mexico, or Oklahoma. (See chart for further details). It was decided, therefore, in the Senate-House Conference that those states which permit cockfighting may continue to receive shipments of birds from other states for fighting purposes. Despite the obvious enforcement problems this modification presents, humanitarians can still be grateful that, at last, federal sanctions exist against cockfighting.

Perhaps inspired by the federal statute, many states have upgraded the penalties for animal fighting. Dogfighting is now a felony in the following states:

STATES WHERE DOGFIGHTING IS A FELONY*

1. Alabama	15. Massachusetts	29. Ohio
2. Alaska	16. Michigan	30. Oklahoma
3. Arizona	17. Minnesota	31. Oregon
4. Arkansas	18. Mississippi	32. Pennsylvania
5. California	19. Missouri	33. Rhode Island
6. Colorado	20. Montana	34. South Carolina
7. Florida	21. Nebraska	35. South Dakota
8. Georgia	22. Nevada	36. Tennessee
9. Illinois	23. New Hampshire	37. Texas
10. Indiana	24. New Jersey	38. Utah
11. Kansas	25. New Mexico	39. Virginia
12. Kentucky	26. New York	40. Washington
13. Louisiana	27. North Carolina	41. Wisconsin
14. Maine	28. North Dakota	42. Wyoming

STATES WITHOUT FELONY LAWS*

1. Connecticut	4. Idaho	7. Vermont
2. Delaware	5. Iowa	8. West Virginia
3. Hawaii	6. Maryland	

No states had felony provisions at the beginning of 1975. By 1981, 7 states had enacted felony laws. Now the total is 42, with several other states considering similar legislation.

BULLFIGHTING

Bullfighting prohibitions are often cited in state anti-cruelty laws that generally prohibit the "baiting" of animals; however, anti-fighting code sections in Iowa, Michigan, Missouri, New York, North Carolina, Pennsylvania, Tennessee, Washington, and Wisconsin include "bulls" in the list of animals specifically protected. Inspired by the attempted promotion of "bloodless" bullfights, California, Florida, and Rhode Island have enacted anti-bullfight statutes, in addition to their animal welfare laws. The Rhode Island statute follows:

Section 5-22-25. *Bullfights prohibited.* It shall be unlawful for any person to promote, advertise, stage, hold, manage, conduct, participate in, engage in, or carry on any bullfight exhibition, any bloodless bullfight, contest, or exhibition or any mock bullfight or similar contest, or exhibition, whether for amusement or gain or otherwise. Any person violating the provisions of this section shall, upon conviction, be imprisoned not exceeding one year or fined not exceeding five hundred (\$500) dollars or shall be punished by both such fine and imprisonment.

SUMMARY

Laws against cruelty have traditionally been passed to prevent two evils: 1) needless animal suffering, and 2) the demoralization of human beings. In France until 1963, under the general anti-cruelty statute, the second purpose took such precedence over the first that only cruelty which took place in public was subject to prosecution. The rationale for the law was that onlookers would be harmed by public spectacles. Photographs showing the facial expressions of an enthusiastic audience at a cockfight or bullfight amply illustrate the effect.

In the few states lacking a statutory prohibition against fighting and baiting, animal fighting may be rendered a violation of the anti-cruelty laws by court decision or may be declared illicit in opinions issued by the state's attorney general. Concerned humanitarians in those states should invoke the general anti-cruelty provisions of their state in the event of a perceived violation.

ANIMAL FIGHTING VENTURE PROHIBITION FEDERAL ANIMAL WELFARE ACT

(Sec. 2156.) (a) It shall be unlawful for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

(b) It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

(c) It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the States of the United States.

(d) Notwithstanding the provisions of subsections (a), (b), or (c) of this section, the activities prohibited by such subsections shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof.

(e) Any person who violates subsection (a), (b), or (c) of this section shall be fined not more than \$5,000 or imprisoned for not more than 1 year, or both, for each such violation.

(f) The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this subsection. Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner if found, resides, or transacts business.

(g) For purposes of this section—

(1) the term 'animal fighting venture' means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term 'animal fighting venture' shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting;

(2) the term 'interstate or foreign commerce' means—

(A) any movement between any place in a State to any place in another State or between places in the State through another State; or

(B) any movement from a foreign country into any State;

(3) the term 'interstate instrumentality' means telegraph, telephone, radio, or television operating in interstate or foreign commerce;

(4) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(5) the term 'animal' means any live bird, or any live dog or other mammal, except man; and

(6) the conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of this chapter as a dealer, exhibitor, or otherwise.

(h) The provisions of this chapter shall not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this chapter or any rule, regulation, or standard hereunder.

1. Its provisions on animal transportation and experimentation are described in Chapter IV.

2. Those provisions are reproduced in full at the end of this chapter.

Chapter X

TRAPPING AND POISONING

by Cathy Liss

TRAPPING

Each year approximately 20.3 million furbearers are trapped in the United States for the fur trade. Although professional trappers, or those who derive most of their income from trapping, are relatively few in number, their ranks are swelled by part-time and amateur trappers, especially during times of high fur pelt prices. At these times there may be several million trappers operating in the United States, and their impact on wildlife can be severe. Many species of furbearers have become endangered or been totally eliminated from various states from overtrapping, which continues to threaten species such as the Canadian Lynx, Bobcat, River Otter, and Fisher.

In spite of a rising tide of public opinion condemning trapping, especially the use of the cruel leghold trap, state wildlife departments have made few changes to reduce animal pain and suffering. The legislatures of some states have overridden state wildlife departments and banned the leghold trap in New Jersey and Rhode Island. Much needs to be done, however, to make major changes in the philosophies, regulation formation, and conservation approach in these agencies. The fur business, which allies itself with trappers to oppose the influence of those attempting to alleviate animal suffering and conserve wildlife, has much at stake. *The New York Times* estimated that U. S. fur sales generated \$1.8 billion in sales in 1986.¹ More recently, fur sales have fallen dramatically in European countries. April 1989 figures show the following declines in consumer demand: Germany, 25%; Holland, 90%; United Kingdom, 74%; Austria, 25%; and Switzerland, 75%. While millions of pelts from animals trapped in the U. S. are sold here, the majority, some 80% or more, are shipped to Europe.

EUROPEAN INITIATIVES AGAINST THE STEEL JAW TRAP

Alan Clark, Britain's Minister of Trade and Industry, initiated the first proposal to require labelling of furs commonly caught with steel jaw leghold traps. These traps were banned in Britain in 1958 when Prime Minister Churchill overruled bureaucrats at the Ministry of Agriculture and insisted that the "gin" trap, as it is known in England, be banned. Nevertheless, London continued to be a major center of the fur trade, vying with Frankfurt and Leningrad.

Despite strong public and Parliamentary support, the Clark proposal to require labelling failed. The decision was taken shortly before Prime Minister Thatcher's attendance at an economic summit in Ottawa. Canada had issued violent objections to the proposal.

The concept did not die, however. Two Members of the European Parliament, Madron Seligman, Chairman of the Parliamentary Intergroup for Animal Welfare, and Mrs. Barbara Castle, put forward a similar measure. The Declaration was signed by 276 Members, thus making it the official position of the

European Parliament, in February 1988. After referral to the Environment Committee and extensive debate, the Parliament voted, October 1988, to forward the amended Resolution to the European Commission. In April 1989, the Commission proposed a Regulation to ban importation of beaver, otter, coyote, wolf, lynx, bobcat, sable and raccoon fur from nations that had not banned use of the steel jaw leghold trap by 1996. On September 10, 1990, Parliament voted to ban the imports into the European Community from January 1, 1995 onwards and to include in the list of species, muskrat, fisher, badger, marten, ermine, and also red squirrels caught in body snares. The Regulation now goes to the European Commission and Council, which have received a further proposal from the Economic and Social Committee to include an additional nine species.

The Regulation, as approved by the Parliament, recommends an interim labelling measure to identify fur from animals caught in steel jaw traps or other indiscriminate trapping methods. It bans importation, exportation, manufacture, sale and use of the steel jaw leghold trap as well as the importation of pelts. The Parliament recommended participation in the International Standardization Organization's "humane" trapping standards. This potential loophole is lessened by freedom of access to all materials relating to the traps and standards.

STATE REGULATIONS

State regulations in this chapter represent, on the whole, legalized cruelty, and attention is directed at some of the more egregious examples. It is hoped that the reader will note the inherent mistreatment and cruelty in the majority of the regulations so that action will take place to end them. Trapping methods under state regulation determine how these animals are trapped and killed and, therefore, the degree of pain and suffering caused. Where humane regulations exist, activists should take part in their enforcement. One major reason for the fact that these regulations are not under more scrutiny for their reform, is the extreme difficulty in changing them. A few states' regulations are promulgated by state legislatures, but most are the product of the game agencies themselves, and the public has little opportunity to demand changes. However, state legislatures can override regulations formulated by the game agencies, and humane organizations have been successful, against overwhelming odds, in getting legislation enacted limiting the steel jaw leghold trap in several states and counties.

Unfortunately, 32 states have enacted "hunter harassment" laws that prohibit any person from wilfully interfering with hunting, fishing or trapping activities: Arizona, California, Colorado, Delaware, Georgia, Idaho, Illinois, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Missouri, Montana, Nevada, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington and West Virginia. Similar legislation is pending in other states. A "hunter harassment" law passed in Arkansas was repealed before it was enforced. In 1988, Connecticut's "hunter harassment" law was invalidated and declared unconstitutional by a federal judge because it was vague and prohibited free speech.

STEEL JAW LEGHOLD TRAPS

Federal legislation to ban the steel jaw leghold trap has been repeatedly

introduced since 1957. Only two public hearings have been held and no legislation has ever reached the floor of Congress for a vote. While 63 countries worldwide have banned this trap,² the United States lags far behind in recognizing its inhumane and non-selective nature. The failure to enact national legislation is not due to lack of support from the American public. A 1978 survey sponsored by the U. S. Fish and Wildlife Service and conducted by Yale University revealed that fully 78% of the American public is opposed to the use of the steel jaw leghold trap.

Alternatives to the steel jaw leghold trap exist that are equally effective and cause far less pain, suffering, and injury. Thus, opposition to banning this trap is not based on logical grounds.

A constant barrage of propaganda to defend this trap has consistently come from trappers, furriers, the federal government, state game agencies, and such lobbying groups as the Wildlife Legislative Fund of America and the National Rifle Association. Woodstream Corporation of Lititz, Pennsylvania, now owned by EKCO Group Inc., is the largest manufacturer of the steel jaw leghold trap, a trap that remains basically unchanged since the early 19th century. In 1983, a bill that would have banned interstate commerce in this trap and the furs taken with it, was introduced by U. S. Congressman Clarence Long with 125 co-sponsors. Hearings were held in 1984 in the Health and Environment Subcommittee of the Energy and Commerce Committee, but in spite of widespread support, it failed to be reported out of the Subcommittee before the end of the session. In 1985, similar bills introduced by Congressmen Tom Lantos and James Scheuer and Senator Charles Mathias met the same fate. Congressman Scheuer again introduced his bill in April 1990. Hearings had not been scheduled as we go to press.

Only on state or local levels has progress been made to ban this trap. The most inclusive legislation ever enacted in this country was passed by the New Jersey Legislature in 1984. This law bans not only the use, but sale, manufacture, and possession of steel jaw leghold traps. Passage of this law over the vociferous opposition of trappers who do not wish to change their methods, is proof that the majority of citizens, when shown the extreme cruelty of this outdated trap, will urge their representatives to ban it. Since passage of the New Jersey law, trappers have challenged it unsuccessfully in court and through legislative proposals.

Two other states have prohibited most uses of the steel jaw leghold trap: Rhode Island, whose ban was enacted in 1977, and Florida, which banned the trap by regulation in 1972. Both states allow use of the trap under special permit to take nuisance animals. In practice, permits have been given in Rhode Island to trap River Otters³ in fish hatcheries, although proper screening or fencing would have prevented them from entering the premises.

Other states limit the use of steel jaw leghold traps on land: Delaware allows use of traps size #1½ (4 ¾-5" jawspread) or more only in tidal wetlands; Connecticut bans land use except for placement in animal burrows; Massachusetts allows use on land only under buildings; North Carolina limits land use for Mink or Muskrat in or west of Surry, Wilkes, Alexander, Catawba, Burke, and Cleveland Counties; Tennessee requires that traps up to size #4 (6-6 ½" jawspread) be placed only in burrows or entrances to holes *except* that so-called "Soft Catch" leghold traps may be used in the open. Soft Catch steel jaw traps

have a small strip of hard synthetic material on the jaws that are slightly off-set, but animals often struggle and bite at the trap and at their feet, causing tooth damage and self-mutilation, in the Soft Catch traps just as they do in standard steel jaw leghold traps. Additional use restrictions on leghold traps include the following: In Ohio, they may not be used to take the following game species: hares, rabbits, squirrels, Ground Hogs, White-tailed Deer, or Black Bear (since these traps are non-selective, however, this regulation has little meaning).

In New York's Suffolk County, both use and sale of leghold traps were prohibited in 1986. The county legislature voted this ban and overrode a veto by the County Executive. It was strongly opposed by the state Department of Environmental Conservation (DEC), but the numerous instances of pets caught in these traps and the potential danger to children and adults, persuaded the legislature to uphold the ban in 1987. However, in 1988 DEC's lawsuit claiming state jurisdiction prevailed, and the Suffolk County law was nullified.

The city of Aspen, Colorado, voted to prohibit the sale of furs from animals caught in areas permitting use of the steel jaw leghold trap. The ordinance was adopted by the City Council on December 6, 1986. In California, an important ruling by the state's Attorney General September 3, 1987, recognized a county's authority to enact legislation banning use of the steel jaw trap.

In 1987, the State of Washington enacted a law permitting landowners to free animals found trapped on their land and to find out from law enforcement officials the identity of those caught trapping illegally. Trappers placing traps illegally can be fined.

SURVEY OF VETERINARIANS

At hearings held on legislation to ban the steel jaw leghold trap, trappers often claim that these traps are not cruel and do not cause physical damage to trapped animals. In order to document actual injuries, the Animal Welfare Institute sent a questionnaire in 1986 to veterinarians in Illinois, Michigan, New York, Texas, North Dakota, Washington, and Louisiana. The survey asked veterinarians if they had treated animals caught in leghold traps and, if so, they were asked how many animals, whether cats, dogs, or wild animals, and comments on treatment and injuries were requested. Finally, veterinarians were asked if they supported or opposed use of this trap. An overwhelming percentage, 79.3% of the 936 veterinarians responding, oppose the steel jaw leghold trap. Over 4,000 injuries or deaths of domestic animals and other non-target wildlife were listed. Non-target animals caught in the traps included Bald and Golden Eagles, Great Horned Owls, Red-tailed Hawks, calves, fawns, deer, colts, lambs, goats, geese, and ducks.

Comments from these veterinarians included the following:

"Usually lesions involve deep lacerations through soft tissue and sawing-
type lesions on the bone . . ."

"Excruciating pain for the animal . . . almost guaranteed amputation."

"Amputation or euthanasia necessary in all cases."

"Fractured toes, tearing muscles and tendons, skin badly abraded, infection."

"Most had to be euthanized. Amputations of limbs of many, after gangrene had set in."

"... Fractures are common. In cold weather the affected limb often freezes before the animal is found (if found) and of course this complicates an already serious injury. Two years ago 38 of these traps were found set along one of the creeks in the area! This was a semi-residential, semi-rural area with plenty of wandering pets."

"Severe soft tissue damage, fractures, abscesses, gangrene."

"The bones were broken, the wounds were infected and some were maggot-infested."

"Most have had permanent injury either to bone, tendon, nerve, or all three. Most have had amputations for lack of blood supply to the distal area."

"The metacarpals were fractured, the wound was open and infected. The cat had been shot between the eyes and her lower jaw was shattered."

"Large German Shepherd had her tongue cut off by the trap. The dog had to be euthanized."

"Usually gangrene with resultant loss of affected limb, also mouth and tooth damage, shock and emotional trauma."

"... multiple surgeries and months of bandage changes."

"Leghold traps inflict some of the worst, ugliest strangulation type leg wounds I see. I cannot imagine any greater terror for an animal than to be captured in one of these devices."

A number of veterinarians had treated birds of prey with trap injuries, usually requiring leg amputation. A Texas veterinarian treated a raccoon that had to be euthanized because of infection; a fox had to have a leg amputated. Another veterinarian from the same state noted that wounds vary from complete loss of the extremity involved to minor lacerations and contusions; some have chewed their own leg off, but most are lost due to loss of circulation, leading to gangrene.

This survey shows the non-selective nature of the steel jaw leghold trap, as well as the pain and injury suffered by animals that are found. Wild furbearing animals suffer pain, dehydration, hunger, trauma, self-mutilation, and fear till they are finally killed by the trapper.

SIZES OF STEEL JAWS

Eighteen states do not restrict the size of steel jaw leghold traps that may be used. Sizes range from #0, with a 3½ inch jaw spread, to a bear trap, with a jawspread of 36 inches. In some cases the regulations distinguish between land and water sets in designating maximum size.

STATE REGULATIONS ON SIZE AND PLACEMENT OF STEEL JAW LEGHOLD TRAPS

<i>State</i>	<i>Type Restriction</i>	<i>Maximum size allowed</i>
Alabama	Land use	# 2
Alaska	All uses	9 inch jawspread
Arizona	Land use	7½ inch jawspread
Arkansas	Land use	5⅝ inch jawspread, traps over 5 inches must be offset or padded
	Water use	7½ inch jawspread
California	All uses	7½ inch jawspread unless offset jaws used
Colorado	All uses	5⅝ inch jawspread
Connecticut	All uses except for beaver	5¾ inch jawspread (beaver traps may be 7½ inches or less)
Delaware	Land use	# 1½
Florida	All uses banned except under permit	
Georgia	Land use	# 2
Illinois	Land use	6½ inch jawspread (#4)
	Water use	7½ inch jawspread
Indiana	Land use	# 2 unless offset jaws used
Iowa	Land use	7 inch jawspread
Kentucky	Land use	# 2
Maryland	Land use	5¾ inch jawspread
	Water use	7¾ inch jawspread
Massachusetts	Land use	6 inch jawspread
	Water use	7½ inch jawspread
Nevada	All uses	5½ inch jawspread (#2) or larger must have jaws offset by at least 3/16 inch
New Jersey	All uses banned	
New Mexico	Land use	6½ inch jawspread
	Water use	12 inch jawspread
New York	Land use	6 inch jawspread
	Water use	7½ inch jawspread
North Carolina	All uses	7½ inch jawspread, on land jaws must be offset if jawspread is more than 5½ inches
Ohio	Land use	5⅝ inch jawspread or # 2
Oklahoma	All uses	8 inch jawspread
Oregon	All uses	9 inch jawspread or #4½
Pennsylvania	All uses	6½ inch jawspread
Rhode Island	All uses banned except under permit	6 inch jawspread

<i>State</i>	<i>Type Restriction</i>	<i>Maximum size allowed</i>
South Carolina	Land use	5 $\frac{5}{8}$ inch jawspread or #2
	Water use	#3
Tennessee	Land use	#4 in burrows unless Soft Catch is used
Virginia	Land use	#2 or 6 $\frac{1}{2}$ inch jawspread
Washington	All uses	7 $\frac{1}{2}$ inch jawspread
West Virginia	All uses	6 $\frac{1}{2}$ inch jawspread, except underwater for beaver
Wisconsin	All uses	8 inch jawspread

As shown above, besides the three states banning its use, only 29 states have *any* restrictions on the size of steel jaw leghold traps that may be used. Moreover, many of the maximum sizes allowed are enormous—Alaska's limit of 9 inches (approximately #4 $\frac{1}{2}$) and New Mexico's of 12-inch traps that may be used in water present dangers to humans as well as animals. Offset jaws on leghold traps have spaces between the metal jaws—usually 3/16 of an inch—and they are presumed to do less damage to furbearers caught in the traps, but animals continue to gnaw off feet to escape from them. Nineteen states allow steel jaw leghold bear traps.

TEETH

Traps with teeth are less popular than they used to be, but can still be purchased, as can rows of teeth to attach to traps. Sixteen states prohibit the use of teeth altogether, while an additional ten states restrict their use (see Trapping Regulations Table). Alabama, Iowa, Kentucky, Maine, Virginia, and Wisconsin prohibit teeth on traps used on land. New York and West Virginia prohibit teeth on leghold traps on land or water. Oregon prohibits use of teeth except when trapping gophers, moles, or ground squirrels.

KILLER TRAPS

To prevent the prolonged suffering animals caught in leghold traps endure, the Conibear trap was designed to kill animals instantly. In practice, this trap often fails to kill trapped animals quickly. Two metal bars are intended to slam shut on the animal's neck with great force, killing it as soon as the trap is sprung. Tests at the University of Guelph in Canada have shown, however, that in many instances, animals are gravely wounded, but not killed. Often the animal is held between the two metal bars, struggling, but unable to free itself and in great pain. Glancing blows by the bars can cause wounds or skull fractures without killing instantly. Many pets have been trapped accidentally and held for hours by the neck, even when their owners were present because they were unable to open the trap to save their pets. Like steel jaw leghold traps, Conibear traps often catch non-target animals. The Conibear and similar killer traps are banned in two states: Florida and Oklahoma. Use of killer traps on land is banned in Delaware, Maryland, Massachusetts, New Jersey, South Dakota, and West Virginia. In Connecticut, land use is banned except in animal burrows. South Carolina bans use except as vertical water and slide sets.

The following states limit Conibear trap size: Alabama (5" jawspread maximum); Alaska (11" jawspread maximum); Delaware (5" jawspread maximum); Illinois (maximum on land 7" if square, 8" if round and in water 10" if square, 12" if round); Kentucky (#220 Conibear—7" jawspread—the maximum size); New Hampshire (maximum #220 Conibear except for beaver and otter); New Jersey (maximum 5½" except for beaver and otter); New Mexico (maximum 6½" on land except for beaver, 12" in water); Tennessee (10" x 10" maximum diameter); and Wisconsin (7" x 7" maximum diameter). Massachusetts limits Conibear size to 7" maximum from Nov. 1 to Nov. 14 and to 4½" after Jan. 15. Twenty-five other states limit size of these traps when used on land, but do not restrict size of traps used in water.

SNARES

State legislation regarding the use of snares has not kept up with innovations in the development of modern leg snares that have taken place in recent years. The snare referred to in almost all state regulations is the uncoated, wire snare that is meant to kill the animal caught in a neck set; in some cases, the wire snare catches the body of the animal, cutting through the skin and squeezing tighter and tighter until the animal is dead. Some states, such as Florida, that have banned land Conibear traps and steel jaw leghold traps, still allow snares, which are now used to take the majority of furbearers in Florida. In Canada, wire body snares are widely used to take furbearers. Because of their light weight, trappers can carry enough snares for a long trap line. Humane organizations universally oppose wire neck and body snares.

It is important to differentiate between leg snares and body snares. The leg snare loop is set horizontally at ground level and is triggered by an animal stepping on a pan; the snare loop is activated by a spring device. Most leg snares have some means to prevent increased tension on the animal's leg and have loops no greater than approximately six inches in diameter. Leg snares should have a coating to prevent cutting the skin. By contrast, neck and body snares are set vertically, usually at least a few inches off the ground. The loop is larger than 6 inches. Some types are designed to increase tension until the animal is killed, while others are intended to live trap by stopping tension short of death. The latter have not been successful in preventing animal mortality. Neither neck nor body snares have a coating.

The new leg snares, designed for long-legged animals, encircle the leg by means of a coated cable and hold it without cutting off circulation or cutting through the skin. Much unnecessary pain to animals would be prevented by their use in place of steel jaw traps, and non-target animals could be released without serious injury. Trappers wishing to use cable-coated leg snares may be unable to in many states, however, because *all* snares may be banned under state regulations. These bans were intended to apply to the wire snare for neck and body, but, taken literally, they may preclude use of leg snares. Legislation or revised regulations are needed to clarify the difference between the two types of snares. Maine allows use of "cable traps with a closing diameter of not less than 2½ inches" for trapping bear. Only West Virginia specifically allows use of foot-snares, while prohibiting land use of other snares.

Sixteen states ban all snares. Kentucky specifically bans snares with self-locking devices; Massachusetts bans all choke traps. Alabama bans land use of

snares, as does Indiana with the exception of use on private land by the landowner. Arkansas allows land use only within 20 feet of water, and non-locking snares must be used. Colorado requires locks on snares, and body-gripping snares cannot be larger than 30 inches square. Kansas bans dryland snares within 50 feet of a public road or 5 feet of a fence bordering a public road. Maryland bans snares in five counties: Carroll, Cecil, Harford, Montgomery, and Baltimore. Minnesota's rules on snares vary in different zones: Land snares can only be used to take fox in the Forest Furbearer Zone in the northeast. Elsewhere in the state, only water sets are allowed; no snares larger than 10 inches in diameter are permitted. North Dakota regulations changed in 1985 to allow use of snares to take Coyotes only. South Dakota regulations require locks to keep the snare loop from closing to a diameter less than 2½ inches, and snares must be attached to an anchor. Tennessee prohibits spring-activated snares in the eastern division of the state. Virginia requires snares to have loops less than 8 inches in diameter with the top of the snare loop not more than 10 inches above ground.

New Hampshire's law was weakened in 1986 to permit the use of snares to trap Beaver and Otter underwater and to take Coyotes in all but four counties. A special permit and landowner's permission must be obtained before using the snare to trap Coyotes.

CAGE TRAPS

Animals entering cage traps are held uninjured, thus saving the lives of non-target animals that are caught. Only a small proportion of trappers use them despite the fact that those who do find them effective. Raccoons, Muskrats, Beaver and other animals can readily be caught in these traps without injury. Nevertheless, Vermont and Michigan ban cage, box, and wire traps without exception. Delaware allows box traps only for catching Raccoons and by landowners to trap rabbits during open season. Openings of such traps must not exceed 195 square inches. Illinois, Iowa, Massachusetts, Minnesota, Missouri, and Wisconsin prohibit all traps that capture more than one animal at a time. Arkansas allows cage traps for rabbits, but they must not be larger than 8 inches x 10 inches with a maximum of eight traps per trapper allowed. Maryland allows cage traps only in upland and wetland areas. New York's regulations state that it is illegal to capture Muskrats with box, cage, or wire traps or to use traps capable of taking more than one Muskrat at once. In Ohio, cage or box traps may not be used to capture game quadrupeds (hares, rabbits, squirrels, Ground Hogs, deer and Black Bear). Virginia permits their use to trap rabbits.

A variation of cage traps is the log box trap. Some trappers in remote areas have constructed log traps baited with meat. A heavy lid falls when the animal takes the bait. The darkness in the trap has the effect of making the animal less afraid than it would be in the open, and it is protected from sun, rain, sleet, and predators. Unwanted animals can be released unharmed.

BAITING TRAPS

Placing bait in non-exposed traps is allowed in every state except Mississippi, which bans bait but allows liquid scents. Exposed bait, which is usually meat, attracts raptors and other non-target animals and is banned in 22 states.

New Jersey, Ohio, and West Virginia allow no exposed baits, and Alabama prohibits hanging or suspending bait within 25 feet of a steel trap (see Trapping Regulations Table). California, Nebraska, and Nevada specify that baits cannot be within 30 feet of leghold traps, but do not mention other types of traps. The bait distance from traps is 30 feet in 10 states, 25 feet in 3 states, 20 feet in 3 states, and 15 feet in one state. This prohibition is necessary to prevent eagles, hawks, and other raptors from becoming trapped, yet fewer than half the states have such regulations. The capture of a bird of prey in a trap is a violation of the Migratory Bird Treaty Act, even if accidental, and it is surprising that the Fish and Wildlife Service has not required such regulations. In Minnesota, the Raptor Rehabilitation Center for treating injured birds of prey reports numerous cases of these birds being severely injured by steel jaw leghold traps. Many starved to death prior to being found, while others had to have their legs amputated because of massive injury or gangrene. Even when the injury does not appear to be serious, the Raptor Rehabilitation Center has found that within three days, gangrene makes amputation necessary to save the bird's life. The testimony of this rehabilitation center resulted in the banning of exposed bait in Minnesota. A North Dakota veterinarian answering an AWI questionnaire on animal injuries from leghold traps, noted that he had seen eagles with evidence of previous trap injuries as indicated by the loss of a toe or a portion of a toe, suggesting that the birds did not learn to avoid traps after being caught. He also observed that since North Dakota banned the use of exposed bait, the incidence of trap-injured raptors declined dramatically.

POISON

Twenty-six states specifically mention poison in their regulations on trapping. Twenty-one states prohibit the use of poison to capture furbearers, while four allow poison under permit only (Alaska, California, Kansas, and Rhode Island [see Table]). In New York it is illegal to use poison to take Beaver, River Otters, Mink, Raccoons, Muskrats, or skunks, while in South Dakota it is illegal for taking Mink and Beaver but presumably allowed for other species. Poison as a means of taking furbearers should be illegal in all states. Poison presents a major threat to non-target animals and pets and in most cases is extremely cruel. Poison as a means of predator control will be discussed later in this chapter.

DESTRUCTION OF ANIMAL DENS, HOUSES, AND DAMS

In the early days of trapping, it was standard practice to dig Beaver and Muskrats out of their homes by destroying their dams and houses. This is no longer permitted in many states. In Maryland and West Virginia, the destruction of Beaver dams is prohibited. In Oregon, Muskrat houses may not be destroyed. Colorado, Idaho, Maine, Massachusetts, Minnesota, Montana, New York, South Dakota, and Vermont prohibit destruction of Beaver and Muskrat houses, dens or dams. Some states go further: Alaska (except Muskrat feeding houses), Delaware, Illinois, Iowa, Kansas, Michigan, Missouri, Nebraska, New Hampshire, Rhode Island, and Wisconsin all ban den, house, and dam destruction. In Indiana, Iowa, and Massachusetts, it is illegal to remove animals from dens, and New York prohibits killing Raccoons in their den trees.

Most states make exceptions for destroying animal dens, especially Beaver dams and lodges when the animal is causing property damage.

TRAP PLACEMENT

An extremely important prohibition only mentioned in a few states' regulations is the banning of traps or devices that hang or suspend animals. Minnesota and Pennsylvania, for example, ban pole traps, that is the placement of steel jaw leghold traps on the tops of poles, posts, or any other elevated perch in order to catch birds. The latter state allows such traps under permit, however, and the Game Department has many such traps at its fish hatcheries. It is now necessary to obtain a federal permit to use these traps. For many years, pole traps were placed at fish hatcheries to catch Ospreys and other fish-eating birds. In 1972, all birds of prey were added to the Migratory Bird Treaty Act, which accorded them protection from trapping, except under permit for falconry purposes.

Traps that hang or suspend furbearers are prohibited only in New York and North Carolina. Leghold traps set on tree limbs or trunks catch squirrels, Marten, and other tree-climbing furbearers, who hang by one leg until the trapper arrives.

It is illegal to set a trap on top of a post or stake elevated 3 feet or more above ground level in Alabama, West Virginia, and Wisconsin.

Only 12 states regulate the distance from a Muskrat or Beaver house that traps may be placed. In Connecticut, traps must be at least 10 feet from a Muskrat or Beaver house, including bank dens. It is legal in that state, however, to place leghold traps on land in animal burrows, the only legal place for land use of these traps. Illinois prohibits traps set inside a Muskrat house or Beaver lodge and bans traps closer than 10 feet from any hole or den except that water sets may be within 10 feet of a den. Maine, however, bans traps within 25 feet of a Muskrat or Beaver house, 10 feet of a Beaver dam or 4 feet of a Beaver trap set by another trapper. Massachusetts bans traps within 10 feet of the waterline of a Muskrat or Beaver house. Michigan prohibits traps within 6 feet of a Mink or Muskrat house, hole, or home, or within 50 feet of a Beaver lodge or hole. In New York, traps may not be set within 5 feet of a Muskrat house except in certain wildlife areas. Rhode Island bans traps within 8 feet of a Muskrat house. Vermont bans traps within 25 feet of the nearest point above the water, of a Beaver house or dam. West Virginia bans traps within 15 feet of the waterline on the structure of any Beaver house or burrow. Wisconsin's regulation allows traps only 15 feet or more from Beaver dams or houses in Beaver season and 50 feet away when not in Beaver season. Tennessee and Connecticut, reacting to pressure from owners of hunting dogs, ban steel jaw traps in the open and require them to be set in burrows. On the other hand, Pennsylvania prohibits setting them within five feet of a hole or den on land. The trapping of furbearers in their dens or houses is extremely inhumane.

Seven states ban traps near human residences. California, Maryland, and Ohio require traps to be at least 150 yards from residences. Colorado's regulations require 500 yards distance. Maine bans traps closer than one-half mile to towns, villages, and residences except for cage traps and water sets. Nebraska bans traps 200 yards or closer to dwellings, feedlots, or livestock crossings and 100 yards from facilities in state recreation areas. (In most parts of the east, trapping is banned in state parks and recreation areas.) New Mexico bans land sets closer than one-quarter mile from dwellings.

Thirteen states regulate the distance traps must be from roads or ban the

placement of traps on pathways or roads. Georgia, New York, Ohio, Oklahoma, and Texas allow no traps on public roads. Kansas bans traps closer than 50 feet from roads and 5 feet from fences bordering roads. Virginia bans traps closer than 50 feet from roads in Clarke, Fauquier, and Loudon Counties only. Missouri and South Carolina specify no traps in pathways. Mississippi bans traps closer than 100 feet to any street or highway, while Nevada requires a distance of 200 feet from the road unless the traps are #1 Newhouse or smaller. New Hampshire bans traps on public ways, paths, near bridges, ditches, or drainage systems. New Mexico prohibits traps within one-quarter mile of public campgrounds, roadside rests, picnic areas, or boat launching areas. No land set is allowed in New Mexico within 25 yards of a Forest Service or Bureau of Land Management trail on a map provided to the public, or within 25 yards of the shoulder of a public road that is graded and maintained with public funds; no land sets are allowed within 50 yards of a livestock watering hole except on private land or with the owner's permission.

TRAP SPACING AND NUMBER OF TRAPS

Only 3 states, Alabama, Oklahoma, and Wisconsin, set any limit on the number of traps that can be set by a trapper. Oklahoma allows amateur trappers no more than 20 traps, but professional trappers may set an unlimited number. Wisconsin limits traps to 75 per trapper per season. Alabama limits traps to 150 per trapper per day! Unless placed very close together, checking 150 traps a day would be a hopeless task. The only state regulating spacing of traps is Kentucky, which prohibits land sets less than 10 feet apart.

NON-TARGET AND PROTECTED WILDLIFE CAUGHT IN TRAPS

Growing outrage over the trapping of protected, endangered and non-target animals has led to changes in a number of state regulations. The accidental trapping of domestic pets and livestock is a key focus in many new regulations.

STATE REGULATIONS ON NON-TARGET ANIMALS CAUGHT IN TRAPS

Alabama	Trappers are liable for damage to people or domestic animals caught in traps. Negligence on the part of the trapper need not be proven. ⁴
Arizona	A trapper shall release without additional injury all animals that he cannot lawfully take by trap and he shall possess in the field a device designed to restrain trapped animals so that they can be removed from the trap.
Colorado	If a non-target animal that is in closed season ⁵ is trapped, the carcass shall be delivered to a Division Wildlife Officer within five days. Failure to do so is <i>prima facie</i> evidence of unlawful possession of such wildlife.
Georgia	Choke sticks must be carried while checking traps and used to release domestic animals; it is unlawful to sell the fur of any domestic dog or cat.

- Idaho Wildlife accidentally caught should be released unharmed. If the animal is dead or mortally injured, notify a representative of the Department of Fish & Game before removing the animal from the trap. Possession of protected species during closed season is unlawful.
- Indiana If a Bobcat, Badger or River Otter is accidentally trapped, the trapper is requested to call the local conservation officer. The latter species are protected from trapping.
- Kentucky "Traps may not be set in such a manner as to unreasonably endanger the life or safety of any domestic animal. Many complaints about trapping concern the fact that traps catch dogs. Although it is most unusual for a water set to catch a dog, fox sets may attract dogs as well as foxes. Any trapper should know what to do if he encounters a dog in his trap; fox trappers should certainly be willing, able and prepared to release dogs. Showing the landowner that you recognize the problem of dogs and can effectively deal with it, will probably open up much more land for you to trap on, than will ignoring the problem or taking a callous or uncaring attitude about it." Regulations recommend using a #2 (4½-5¾" jawspread) trap for foxes and not a larger one, to avoid injury to dogs. It is recommended that a hog-choker or nylon rope be carried to control the trapped dog while you remove it from the trap. If the dog is wearing a collar, return it to the owner and explain that you accidentally trapped the dog and offer to pay any veterinarian bills that might arise from injuries. It is possible, but risky and difficult to release a dog by first wrapping it in a blanket or coat. Also one can place a notched piece of plywood with the dog's foot and trap on the side of the plywood away from the trapper to avoid being bitten.
- Louisiana "Avoid setting traps in areas where domestic animals may be caught."
- Minnesota "A person who is not an employee of the Department of Natural Resources who performs a necessary service in recovering, preserving or transporting the pelt of a protected furbearer (except Muskrats) which was accidentally killed or lawfully killed while causing or threatening injury or damage, may be entitled to a pelting fee in the amount of 25% of the proceeds of the sale of the pelt." Exceptions are Fisher, River Otters, Pine Martens, foxes, Bobcats, Lynx, or Gray Wolves where prior authorization is needed. (This regulation actually rewards the trapper of protected species.)
- Missouri Traps may not be set in paths made or used by persons or domestic animals.

Montana	Snares must be set so as not to endanger livestock. A trapper who injures livestock in a snare is liable for damages. If Swift Foxes are trapped accidentally, they must be released, or if dead, the carcass turned in to the Department.
Nebraska	"Some [animals] will be docile . . . others will be highly excited, but they generally settle down when covered with an old jacket or tarp. It is then a simple matter to step on the spring and release the animal." Another suggested method: a stick with a loop on the end to hold around animals' necks while releasing the spring.
New Hampshire	Any trap, snare, or other device in which any bird may be taken is declared to be a public nuisance and may be summarily destroyed or abated by any person. The provisions of this section shall not apply to the setting of a trap on a pole for the purpose of taking unprotected birds under a permit issued by the director. Any person causing injury or damage to domestic animals by the aid or use of traps shall be liable to the owner therefor. Anyone hunting or in pursuit of wild animals who causes death, injury, or damage to domestic animals, ducks, or fowl shall be liable to the owner therefor.
New Mexico	If a protected animal is trapped, it must be released. If it is badly injured or its release would be dangerous to accomplish, you must advise the Department of Game as soon as possible. The Department will release the animal if necessary and treat its injuries.
North Dakota	Snares were banned in the state because they took large numbers of non-target animals, but the 1985 state legislature passed legislation that allowed use of snares for Coyotes with restrictions. The regulations contain stern warnings: "Keep in mind your conduct as individuals especially regarding capture of non-target species will determine whether you retain this trapping option, or whether it again becomes prohibited . . . In the past, concern over accidentally snared big game was a major complaint against snares. Most deer and other big game caught in snares are captured around the neck. Unfortunately, there is no way to completely eliminate this except for the trapper to avoid encountering big game species with your snares by not setting snares in areas frequented by big game. The legislature can prohibit snares for taking Coyote as easily as they allowed it."
Pennsylvania	"To remove a dog or cat from a trap, place a coat over the animal's head and depress the trap spring in one quick, easy motion. A snare or forked stick may also be used to hold the animal away from you. Should you kill any wild bird or animal by mistake, immediately remove the entrails and deliver the carcass to any Game Protector. A reduced pen-

	alty will be charged, except for Elk and Black Bear. The penalty must be paid within 24 hours. Hunters reporting a mistaken killing and paying the penalty do not suffer loss of hunting privilege."
Rhode Island	Every trap shall be placed in a hole, brush pile, stone wall or other protected place so situated as to be inaccessible to any domestic animal.
South Carolina	No trap may be set "in the open" or in paths, roadways, or runways commonly used by persons or domestic animals.
South Dakota	No traps are allowed in fenced enclosures for livestock without permission. If protected furbearers are taken, notify the Department within 24 hours.
Tennessee	When any domestic animal is caught, the trapper must make a written report to the owner and pay damages for animals caught.
Virginia	No body-gripping traps 5 inches or larger may be baited with a lure or scent above ground likely to attract a dog.
Washington	Wildlife taken for which the season is not open shall be released unharmed. Any wildlife that cannot be released unharmed must be left in the trap and Department of Game officials notified immediately.
Wisconsin	Non-target or protected animals must be released immediately. If the animal is dead, leave it in the trap and call the local warden or wildlife manager for instructions. Injured animals may be transported to the nearest rehabilitation facility, but the conservation warden must be contacted within 24 hours.
Wyoming	Wildlife caught accidentally shall be released unharmed.

These regulations suggest that the problem of non-target animals being caught is beginning to be taken more seriously than in the past by game departments. In addition to the advice given to release non-target trapped animals, the legal liability for damage caused to domestic animals and wildlife protected from trapping has become part of trapping regulations in many states. Besides the written regulations, the banning of steel jaw leghold and killer traps on land in several states, and snares in many others, can be explained by the fears of people for their pets and livestock, as well as for big game. Owners of hunting dogs have obtained bans on certain traps or placement of traps because so many of their dogs were killed or maimed in traps. All cases of non-target animals accidentally trapped should be reported by citizens to their Game Departments and local humane societies as well as to the Animal Welfare Institute. Unfortunately, there is no organized system at present to chronicle these trappings and so to determine their incidence. With greater attention paid to these cases, however, regulations could be tightened in all states.

In Kentucky, trappers must give a written description of the location of the trap line within 24 hours of setting traps to the conservation officer in that

county. Any changes in location of the traps must be reported to the county in writing. This provision does not apply to those trapping on their own land.

KILLING TRAPPED FURBEARERS

Very few states address the problem of how to kill animals found alive in traps. In Georgia, trappers are required to carry a .22 caliber rimfire gun while tending traps and to use that weapon to kill furbearers. All other states that mention the killing of trapped animals offer only advice rather than requirements on the method of killing trapped furbearers. Alabama requires trappers to carry a choke stick and they *may use* a standard .22 caliber rimfire firearm to kill the furbearer. New Jersey regulations state that except on Sunday, trappers with a valid rifle permit *may* carry a .22 caliber rifle and use short rimfire cartridges to kill legally trapped animals other than Muskrat. In Washington, lawfully trapped animals *may* be dispatched with a firearm. Arizona, Wisconsin, and South Dakota require trappers to either release or kill trapped animals without stating the methods. South Dakota states that animals be "immediately humanely killed" but does not define the term. One state, Wisconsin, prohibits a method of killing trapped animals: Muskrat, Mink, Beaver and River Otter may not be shot or speared; how they should be killed is not described. Many animals are killed by beating, stomping, and rib crushing.

TRAP IDENTIFICATION

In 10 states no identification of traps is required. Thirty-nine states require identification of all traps by trappers. Most of these require metal tags with the trapper's name and address to be engraved on the tag. The following requirements apply to trap identification in each state.

1. Tags attached to traps showing trapper's name, address and license number.

States: Alabama, Arizona, Delaware (except Muskrat traps), Massachusetts, Rhode Island

2. Tags must show name and address of trapper.

States: Illinois, Iowa, Kansas, Kentucky, Maine, Michigan, Missouri, Montana, Nevada, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin

3. Other identification required.

Arkansas: Tag must show name, address, and driver's license number

California: All traps must bear identification numbers issued by Game Department

Connecticut: Only the trapper's name is required

Georgia: Tag must show name or current trapper's license number

Idaho: Name and address required except for traps set for unprotected rodents

Minnesota: Tag with name and address or driver's license number

Mississippi: Traps must have identification numbers issued by Game Department

New Hampshire: Only the trapper's name is required

New Mexico: Traps must have name and address and identification number issued by Game Department

Oklahoma: Trapper's name or identification number

Oregon: Identification brand issued by the Game Department

Tennessee: Only the trapper's name is required

Utah: Only the registered number of the trapper

Wyoming: Only steel jaw leghold traps need to be identified, but untagged traps may be confiscated.

In practice, it is not known how many trappers use unidentified traps. Hope Ryden, the well-known wildlife writer, has encountered numerous examples of unmarked traps in New Jersey, where her dog was caught in such a trap on private land posted against trappers. Countless cases of non-target catches reported in the news cite the lack of identification on the traps. Enforcement is extremely difficult, since the only way an officer can catch a violator is to sit and wait until the trapper returns to check his trap. This might take many days and nights.

LANDOWNER PERMISSION

Forty states require permission by landowners prior to trapping. Written permission must be obtained in 15 states. Three states require that written permission be carried on the person of the trapper at all times when the trapper is in the field (California, Connecticut and Georgia). Twenty states require permission that does not have to be in writing, and five states require that permission be obtained only if the land is posted against trapping.

Written permission required: Alabama, California, Connecticut,⁶ Georgia, Kentucky, Maryland, Montana, New Hampshire, North Carolina, North Dakota, Oklahoma, Rhode Island, South Carolina, Tennessee, West Virginia

Permission required: Arizona, Delaware, Idaho, Illinois, Indiana, Iowa, Louisiana, Minnesota, Missouri, Nebraska, Nevada, Ohio, Pennsylvania, South Dakota, Texas, Vermont, Virginia, Washington, Wisconsin, Wyoming

Permission only if land is posted against trapping: Kansas, Maine, Massachusetts, Mississippi, Utah

TRAP VISITATION

Of the 49 states permitting trapping (Hawaii has no furbearers), only 16 states have regulations requiring visitation of all traps every 24 hours. Fourteen more require trappers to check traps on land every 24 hours, but have different or no requirement for checking water sets (see Trapping Regulations Table). For both land and water sets, four states require visitation every 36 hours, three states every 48 hours, two states every 72 hours, and four states have no visitation requirement at all. The latter four states are Alaska, Michigan, Montana, and

North Dakota. Because of the lengthy period allowed between trap visits in many states, trapped animals suffer prolonged thirst, hunger, and pain from their injuries.

South Carolina has a regulation attempting to enforce their 24-hour visitation rule strictly: "the existence of any decomposed and decaying animal, with the exception of skunk, in any trap, is *prima facie* evidence that the owner has not visited his traps daily as required by this section." In practice, trap visitation regulations are so difficult to enforce that only the possibility that traps could be stolen along with the trapped furbearer or that predators could eat the trapped animal, provide incentives for trappers to visit their traps regularly.

LICENSING

Some states require trappers to buy licenses. Juveniles are encouraged to trap by exemptions or reduced rate license fees offered in many states. Those states that have non-resident licenses usually require reciprocal arrangements with other states allowing non-resident trapping. Fees for trapping licenses average \$15-\$20 for residents, with a low of \$2 in Louisiana and South Dakota and a high of \$50 in Arizona. Non-resident fees average \$200-\$250. Juvenile licenses average \$5. A few states require the purchase of a hunting or small game license in order to trap (see Trapping Regulations Table).

FUR CATCH REPORTS

Most, but not all, states require trapper reports on animals killed. Some states require fur dealer or fur buyer reports only. All states in which Bobcats, River Otters, Lynx, Gray Wolves, or Mountain Lions are taken for fur require that tags issued by the state be attached to these pelts. This requirement is part of the regulations of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which lists all the above species on Appendix II, the category designating species that are threatened or likely to become so if heavily traded. CITES requires that the Management and Scientific Authorities in the exporting country certify that the take did not result in a decline in the species' wild populations, in order to export Appendix II species. Thus, in principle at least, population studies should be carried out by all states on the species listed.

Unfortunately, compliance with CITES is imperfect. Many states have protested to the Fish and Wildlife Service, which enforces the Convention, that such population studies were too expensive to carry out and that they conflicted with states' rights to manage wildlife. The opposition to studies of the Bobcat, a species still considered by many states to be little better than vermin, was especially vehement. In 1978, the U. S. Congress was persuaded to write an exemption for the Bobcat, releasing the states from responsibility of ascertaining that trapping was not harming the species. A few states have tried to comply with CITES by initiating population studies and closing off areas from trapping where species were found to be rare. Most have shown minimal compliance. The export of Bobcat, Lynx, River Otter, and Gray Wolf pelts needs far greater scrutiny than it is currently receiving from state wildlife agencies, conservation

and humane organizations, as there is strong evidence that these species are being depleted.

To prevent purchase and sale of illegally taken animal pelts, Connecticut's regulations prohibit fur dealers from buying or selling untagged pelts of Beaver, River Otters, Red Foxes, Gray Foxes, wild Mink, or Coyotes. Metal tags obtained from the state must be affixed to these pelts by the last scheduled tagging date of the season or before sale, barter, donation, or transportation of these furs. In addition, if pelts of furbearers that are protected from trapping in Connecticut (Bobcat, Fisher, Black Bear, Pine Marten, Canada Lynx, or Mountain Lion) are sold, purchased, or possessed; proof of when and from whom acquired; the hunting or trapping license under which it was taken; and the state and/or county from which it was acquired must be provided to law enforcement officers.

Some states have toll-free telephone numbers to report wildlife poaching and other illegalities, and many offer rewards for information leading to arrest and conviction of persons violating game laws (see Appendix).

The transport of furs illegally taken across state lines and their purchase or sale is prohibited by the Lacey Act of 1900. An undercover investigation by the U. S. Fish and Wildlife Service resulted in the indictments in August 1986 of 18 people by federal grand juries on charges of illegally transporting or trading in pelts of Fishers, River Otters, Pine Martens, Bobcats, and Gray Wolves. These species were listed on various state endangered lists, and federal authorities snared violators by setting up a front, the Mesabi Fur Company, in Duluth, Minnesota, which traded in animals protected by state law. The blatant violations of state and federal law by many trappers and fur dealers mean that the Bobcat coat hanging in the fur salon may well have been made from animals protected from trapping in their native states or may be depleting an already rare population.

PROTECTED AND UNPROTECTED SPECIES

Jurisdiction over mammals not listed by federal law as endangered or subject to the Marine Mammal Protection Act lies with the states. State regulations vary widely. Two neighboring states, for example Arizona and California, have regulations embodying opposite principles: All mammals except bats, game species, and federally listed endangered species are unprotected in Arizona and may be killed at any time; in California all mammals are considered protected nongame species unless otherwise stipulated in the regulations. The practical effect of such divergent approaches can be the legalized wholesale destruction of animals considered undesirable or just good targets for hunters or trappers. Most states have regulations that lie somewhere in between. Species listed either as unprotected year-round or protected from any killing except under permit are shown below. A factor not taken into account by some states allowing year-round trapping of a species is that often, protected and non-target animals are taken, including female furbearers with pups in the den.

UNPROTECTED AND PROTECTED SPECIES OF FURBEARERS

<i>State</i>	<i>Unprotected</i>	<i>Protected from Killing*</i>
Alabama	Nutria, Ground Hog, Bobcat, Beaver	Black Bear, Mountain Lion
Arizona	all animals for which no season has been declared	River Otter
Arkansas	Ground Hog, Gopher, Beaver (taken in water sets and snares only)	Mountain Lion, Red Fox
California	Coyote, Weasel, Skunk, Opossum, mole & rodent (except tree & flying squirrel & rare or endangered species)	Fisher, Marten, River Otter, Desert Kit Fox, Red Fox, Mountain Lion, Wolverine, San Joaquin Kit Fox, Island Fox, Ringtailed Cat, Mohave Ground Squirrel, San Joaquin Antelope Squirrel
Colorado	Coyote, Raccoon, Hog-nosed, Spotted & Striped Skunk, White-tailed, Black-tailed Jackrabbit, marmot, White-tailed, Black-tailed & Gunnison Prairie Dog, Richardson's & Thirteen-lined Ground Squirrel, Rock Squirrel	River Otter, Grizzly Bear, Black-footed Ferret, Lynx, Wolverine
Connecticut	—	Bobcat, Fisher, Black Bear, Pine Marten, Lynx, Mountain Lion
Delaware	—	Red Fox
Florida	Raccoon (except Key Vaca subspecies), Opossum, skunk, Nutria, Beaver, Coyote	Everglades Mink, weasel, Round-tailed Muskrat, Key Vaca Raccoon, foxes, Black Bear, Florida Panther, Goff's Pocket Gopher, Mangrove Fox Squirrel
Georgia	Coyote, Ground Hog, Beaver	Mountain Lion, Colonial Pocket Gopher, Sherman's Pocket Gopher

UNPROTECTED AND PROTECTED SPECIES OF FURBEARERS, cont'd

State	Protected from Killing*	
	Unprotected	
Idaho	Badger, Nutria, Coyote, Jackrabbit,** skunk,** weasel**	River Otter, Fisher, Wolverine, Gray Wolf, Kit Fox
Illinois	—	Badger, Bobcat, River Otter, White-tailed Jackrabbit
Indiana	—	River Otter, Badger, Bobcat, Franklin's Ground Squirrel
Iowa	Coyote	Spotted Skunk, Bobcat, weasel, River Otter, Black Bear
Kansas	Prairie Dog, Coyote	River Otter, Black-footed Ferret
Kentucky	Gray Fox, Coyote	Bobcat
Louisiana	Coyote,*** Raccoon,*** Opossum***	—
Maine	—	Lynx, Opossum
Maryland	—	Bobcat, Black Bear, Least Weasel, Delmarva Fox Squirrel, Mountain Lion
Massachusetts	—	all species not mentioned in game regulations
Michigan	Coyote, Opossum, weasel, Red Squirrel, skunk	Gray Wolf, Lynx, Badger, Fisher, Marten, Black Bear cubs
Minnesota	weasel, Coyote, gopher, Striped & Spotted Skunk, & all mammals for which no season has been declared	Lynx, Gray Wolf, Wolverine, Mountain Lion
Mississippi	—	Red Wolf, Mountain Lion, Black Bear
Missouri	—	River Otter, White-tailed Jackrabbit, Black Bear

UNPROTECTED AND PROTECTED SPECIES OF FURBEARERS, cont'd

<i>State</i>	<i>Unprotected</i>	<i>Protected from Killing*</i>
Montana	—	Black-footed Ferret, Gray Wolf, Swift Fox
Nebraska	—	Spotted Skunk
Nevada	Coyote, Badger, weasel, Spotted & Striped Skunk, Raccoon, Ring-tailed Cat	Black-footed Ferret, Swift Fox
New Hampshire	skunk, weasel, Coyote	Mountain Lion, Lynx, Marten, New England Cottontailed Rabbit
New Jersey	—	Black Bear, Bobcat
New Mexico	Coyote, skunk, rabbit, prairie dog (except Black-tailed), ground squirrel	River Otter, Colorado & Least Chipmunk, Coaimundi, White-sided Jackrabbit, Marten, Black-tailed Prairie Dog, Gray Wolf, Black-footed Ferret, Mink, Southern Pocket Gopher
New York	Red Squirrel, Ground Hog	Mountain Lion, Gray Wolf
North Carolina	Ground Hog	Mountain Lion
North Dakota	—	Gray Wolf, Swift Fox, Lynx, River Otter
Ohio	—	Bobcat, River Otter, Ringtailed Cat
Oklahoma	Coyote, Beaver	Black Bear, Mountain Lion, Red Fox, River Otter, Swift Fox, Black-footed Ferret, Red Wolf
Oregon	—	Kit Fox, Sea Otter, Wolverine
Pennsylvania	chipmunk	River Otter, Pine Marten, Fisher, Bobcat
Rhode Island	—	River Otter
South Carolina	—	Mountain Lion

UNPROTECTED AND PROTECTED SPECIES OF FURBEARERS, cont'd

<i>State</i>	<i>Unprotected</i>	<i>Protected from Killing*</i>
South Dakota	Beaver, Raccoon, Badger, Red & Gray Fox, Muskrat (in some areas), skunk, jackrabbit, Coyote, Opossum	Marten, River Otter, Bobcat, Fisher, Swift Fox, Black-footed Ferret, Mountain Lion, Black Bear
Tennessee	Beaver, Coyote, Ground Hog, skunk	River Otter, Mountain Lion
Texas	Nutria	Black-footed Ferret, Jaguar, Jaguarundi, Margay, Ocelot, Gray Wolf, Red Wolf
Utah	skunk	Lynx, Wolverine, Gray Wolf, River Otter, Fisher, Black-footed Ferret
Vermont	—	Marten, Mountain Lion, Lynx
Virginia	—	Mountain Lion, Delmarva Fox Squirrel
Washington	—	Grizzly Bear, Sea Otter, Gray Wolf
West Virginia	skunk, Opossum, Ground Hog, weasel	River Otter, Mountain Lion
Wisconsin	Opossum, skunk, weasel & all other wild mammals not specifically mentioned in the hunting & trapping pamphlets	Badger, Lynx, Mountain Lion, Marten, Gray Wolf, Wolverine
Wyoming	Badger, Coyote, jackrabbit, Raccoon, Red Fox, skunk	Black-footed Ferret, Fisher, Lynx, River Otter, Pika, Wolverine

*Some states allow killing of these animals under permit, if, for example, they are destroying property. If the species is on the federal Endangered Species List, however, a federal permit must be obtained.

**Jackrabbit, skunk, and weasel are classified as "predatory wildlife."

***Coyote, Raccoon, and Opossum are classified as "outlaw quadrupeds."

NOTE: Cougar = Mountain Lion; Ground Hog = Woodchuck; Marten = Pine Marten

The species in the list above were mainly derived from trapping regulations, but in some cases species listed as endangered, rare or threatened by individual states were not included in the trapping regulations as species protected from take.⁷ Indeed, a good number of species listed on state endangered lists are extinct in the state or nearly so, making protection relevant only if undiscovered populations exist or the species is reintroduced. In Texas, for example, Black-footed Ferrets, Jaguars, Jaguarundis, Margays, Gray Wolves, and Red Wolves are all extinct, as is the Ocelot except for a tiny remnant population in south Texas. In states where an endangered or threatened species still exists, trappers should be clearly informed that they will be subject to fine and/or imprisonment under state and/or federal law for catching these species, but this information is rarely included.

Arizona, Minnesota, and Wisconsin's regulations declaring all mammals not otherwise mentioned in the regulations to be unprotected should be nullified. All states should declare mammals as protected nongame species unless otherwise listed in trapping regulations. This could help prevent decimation and slaughter of many mammal species currently receiving no protection. The characterization of some species, such as the Coyote, Raccoon, and Opossum in Louisiana regulations as "outlaw quadrupeds," amounts to a directive to persecute these animals, and it should be deleted.

The two most persecuted species, the Beaver and the Coyote, may be trapped or otherwise killed year-round in many states. Alabama, Arkansas, Florida, Georgia, Mississippi, Oklahoma, South Dakota, and Tennessee permit year-round trapping of Beaver. In Tennessee, River Otters are threatened species with a population of less than 100 animals, and yet, several are taken in Beaver traps each year. No attempt has been made by that state to prevent accidental trapping of River Otter by requiring the use of cage or box traps in areas where otter are known to exist. Beaver can be caught in cage traps and transferred from areas where they are considered to be creating a nuisance. The year-round trapping orphans many young animals in spring.

Coyotes may be killed year-round in California, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Nevada, New Hampshire, New Mexico, Oklahoma, South Dakota, Tennessee, Wisconsin, and Wyoming. Despite the persecution that the Coyote has suffered for well over 200 years, it has proved to be a survivor. Unlike the Gray and Red Wolves, pack species that died out under intense predator control programs, the Coyote is adaptable to a large variety of climates and prey items. It can survive as a solitary hunter, preying on small rodents, and as a scavenger of carcasses left by larger predators. One study in Kansas showed that Coyotes consumed large numbers of rodents—as much as 75% of their diet consists of Meadow Mice and Cotton Rats. Moreover, when their diet was devoid of mice, reproduction declined: "Without mice in their diet, regardless of apparent condition, ovulation was short or lacking and there was a greater than usual death of embryos in the uterus. Whether or not there is a stimulating factor in the mice, such as vitamin B from the contents of the mouse stomach, or whether the Coyotes are only responding to the same factors that stimulate mouse reproduction has not been proved. However, it is clear that carrion, or even rabbit, does not provide the necessary stimulus for full reproduction."⁸

Thus, Coyotes are ecologically valuable because of their consumption of

large numbers of rodents and rabbits. The same report cited above also observed that after heavy predator control programs in Kansas, jackrabbit populations underwent population explosions, resulting in a reversal of the state bounty in order to allow recovery of Coyotes. In many parts of the country, Coyote killing increased in the 1970s when Coyote fur became popular in the fur industry. Often under the guise of "necessary" predator control programs, Coyotes were actually being killed for their fur.

The value of these resourceful animals to ecological systems and the prevention of needless cruelty involved in killing Coyotes should bring about reforms in state regulations that permit uncontrolled killing.

POISONING AND PREDATOR CONTROL

Predator control has been carried out against native wildlife since the arrival of the first Europeans in the early 1600s. Predators have been reduced in numbers and species variety. The Gray Wolf has been eliminated from 99% of its original range in the lower 48 states. The Mountain Lion has been reduced to a fraction of its range in colonial times, and the Red Wolf is now extinct in the wild as a result of predator control programs. The prejudice against predators has not disappeared, nor have predator control programs. The Gray Wolf continues to be shot in its remnant range in Minnesota, and aerial hunting of Alaskan Wolves is sponsored annually by the state Game Department in that state. Only legal action taken against the Alaskan hunts has limited their scope. Biological studies have established that wolves prey mainly on the weak, and that they are important in preventing overpopulations of deer, Moose, Caribou, and other ungulates. Hunters, however, often see them as competitors. When target populations decrease, wolves are often blamed when the real cause may be the hunters killing too many, or natural cyclic declines in ungulates caused by habitat changes.

GOVERNMENT CONTROL PROGRAMS

In 1909, the U. S. government authorized appropriations for the first time to investigate methods of controlling predators and other wildlife considered injurious. In 1931, the U. S. Congress authorized the Department of Agriculture to eradicate, suppress or bring under control all predators, rodents, and other animals injurious to agriculture, horticulture, forestry, animal husbandry, wild game animals, furbearing animals, or birds. Rabies control and suppression of tularemia campaigns were authorized as well. The law did not require authentication of actual damage. The Department of Agriculture (USDA) was ordered to cooperate with states, individuals, public and private agencies, organizations, and institutions in carrying out control programs.

The 1931 law launched a free-for-all war on wildlife. Traps, guns, poison, or whatever method an agent or individual wished to use to kill animals was perfectly legal. Poisons were liberally spread about, even in wilderness areas with no human habitations, killing animals by the millions—both target and non-target. Since the 1931 law included the possible damage predators could do to wildlife, the mistaken belief that predators were injurious to their natural prey allowed destruction of virtually any member of the wolf, bear, or cat family at

will. Prairie dog towns, once reaching from southern Texas to Alberta, Canada, were poisoned and plowed under, wiping out much of the rich wildlife dependent on these towns—Burrowing Owls, Kit Foxes, Black-footed Ferrets, hawks, and other species.

The federal predator control programs were finally put under scrutiny in several independent reports by wildlife biologists and ecologists beginning in the 1960s. First the Leopold Report, then the Cain Report concluded that the predator and rodent control programs were destructive, killing far more wildlife than was actually destroying livestock or property. The reports were especially critical of the poison campaigns because of the indiscriminate nature of these toxins which killed non-depredating as well as protected and endangered species. The Cain Report was published in 1972, and within one month, administrative action was taken to prohibit poisons on federal lands as recommended in the report (see Regulation of Poisons).

Federal predator control programs had first been carried out by the Department of Agriculture, then by the Department of the Interior (USDI); in 1985, Congress returned jurisdiction to USDA. The government program, known as Animal Damage Control (ADC), was gradually reduced in funding and personnel until it was transferred from USDI to USDA in 1986. Appropriations have since increased. Under Interior, ADC used 50,000 steel jaw leghold traps as well as other traps, such as the Conibear, and poison. It operates under contract to the states. County and state governments also employ trappers, usually through the Agricultural Extension Service. The ADC formerly published its toll of animals killed each year, but under attack from its critics, no longer does so.

Executive Orders issued by two Presidents have also served as directives for animal control programs. In 1972, President Nixon issued an Order that stated, "All such mammal or bird damage control programs shall be conducted in a manner which contributes to the maintenance of environmental quality, and to the conservation and protection, to the greatest degree possible, of the Nation's wildlife resources, including predatory animals." In 1977, President Carter reaffirmed this policy in a statement to Congress: "Because we now realize the importance of the role that predators play in various ecosystems, our goal should be not to destroy them, but to reduce the occasion for the conflict with livestock. My Administration will continue to support the existing Executive Order which prohibits the routine use of poisons for killing predators on public lands. If control is necessary, it should focus on the individual predators causing the problem—not the species as a whole."

Unfortunately, the 1931 predator control act is still on the books, as Congress has never nullified the legislation. A new law to replace this archaic legislation is needed to establish a clear policy regarding predator and rodent control. Pressures from ranchers and special interest groups continue to weaken and modify poison bans issued by the Environmental Protection Agency. Each year since 1972 further erosion has taken place.

REGULATION OF POISONS

Following the 1972 Executive Order, the use of three poisons—strychnine, sodium fluoracetate (Compound 1080), and sodium cyanide—was banned on

federal lands for predator control, and the Environmental Protection Agency (EPA) began restricting the use of these poisons for use as predator controls. Under the Federal Environmental Pesticide Control Act (FEPCA), the EPA had authority to ban sale, use, and registration. This law was later renamed the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Thallium sulfate, an extremely slow-acting and cruel poison, has never been registered and is therefore illegal. Unfortunately, the bans did not include manufacture, export, or use in rodent control, so strychnine, Compound 1080, and sodium cyanide continue to be used to kill rodents.

The bans were further weakened in subsequent years. Sodium cyanide was permitted to be used in a toxic collar for sheep, and the M-44, or "Coyote-getter," became registered for use by states. The M-44 is an explosive cartridge that, when sunk into the ground, will spurt cyanide into the mouth of an animal that pulls on it. The M-44 has been responsible for killing a number of non-target animals including such endangered species as Grizzly Bears and at least one California Condor. In 1985, the use of Compound 1080 was authorized in sheep collars.

EPA field studies found both strychnine and Compound 1080 to be lethal to non-target organisms such as predators who consume animals killed by these poisons. Strychnine is especially toxic to birds. Both chemicals are also toxic to humans. Based on the results of these studies, internal documents of the EPA concluded as long ago as 1976 that both poisons should be cancelled for all uses. The above-ground, outdoor uses of strychnine "make lethal quantities of strychnine bait available to exposed nontarget mammals and birds," noted one EPA document. The scientific proof that these poisons should be banned for above-ground use is solid and unequivocal. The EPA even proposed cancellation of Compound 1080 and 1081 (a closely related poison) and strychnine in 1982. The proposal was never finalized, however, because of political pressure from chemical companies and ranchers, especially sheep ranchers.

In 1976 there were 116 federally registered strychnine products. Today, some 600 registered products exist. About 5,000 to 10,000 pounds of strychnine are used each year, according to Defenders of Wildlife, the organization that successfully sued the EPA to obtain a cancellation of all above-ground uses of strychnine. The suit was won in 1988. Defenders cited studies showing that only 1/100 of an ounce, or 150 milligrams, will kill a 165-pound human, and 23 milligrams will kill a 22-pound dog. Human poisonings by strychnine have a high mortality—approaching 80%. Only if treatment begins within 30 minutes of consumption by humans can the victim's life be saved. Canada Geese have been killed when they ate poisoned oats spread for gopher control, and animals preying on dead or dying rodents have been killed by this poison. An endangered San Joaquin Kit Fox would be killed if fed a kangaroo rat killed by only 2-5 poisoned oat seeds containing 0.5% strychnine. These dangerous poisons should be cancelled for above-ground uses and, it may be argued, for all uses, since they are cruel and can poison groundwater systems. Other methods for controlling rodents exist. Poison has been espoused by those wishing quick methods of killing animals, without considering either the damage to the environment and non-target wildlife, or the cruelty involved.

TRAPPING REGULATIONS TABLE

STATE		NO LICENSE REQUIRED FOR CHILDREN*	TRAPPER/DEALER REPORTS	PITFALLS	DEADFALLS	SNARES	LEGHOLDS	TEETH	CONIBEAR	EXP. BAIT 20'-30' FROM TRAP	POISON	LEGHOLD SIZE	OFF-SET JAWS	CONIBEAR SIZE	LAND SETS	WATER SETS	TRAP IDENTIFICATION	LANDOWNER PERMISSION
																	TRAP VISIT (hrs)	
Alabama		●			(A)	(A)			●		(V)	(H)	24	72	●	●		
Alaska	15		●							(C)	●		●					
Arizona	13	●			●	●	●	●	(V)	(H)	24	24	●	●				
Arkansas	15			●	(N)	●	●	●	●	(H)	24	48 ^p	●					
California		●	●	●		●		●	(C)	●	(H)	24	24	●	●			
Colorado	18								●	●	(H)	48 ^o						
Connecticut				●	(B)	●	(B)		●	●	(H)	24	24	●	●			
Delaware			●	●	●	(A)	(A)	(J)	●	(V)	●	24	24	●	●			
Florida	14	●	●	●	(C)	●		●				24						
Georgia		●							●	(V)	(H)	24	24	●	●			
Hawaii	No Furbearers																	
Idaho		●							●	●			72	72	●	●		
Illinois			●	●	●	●	●	●	●	●	●	●	24	24	●	●		
Indiana				●	(D)				●	(V)		24	24			●		
Iowa		●				(A)	●	●	(V)	(H)	24		●	●				
Kansas	13								(C)		(H)	24	24	●	●			
Kentucky					(N)	(A)			(V)	●	24		●	●				
Louisiana		●				●						24				●		
Maine				●	(A)						(H)	24 ^r	24 ^r	●	●			
Maryland					●	(A)		●	(H)	24	36		●					
Massachusetts		●			(A)	●	(A)	●	●	●	24	48 ^s	●	●				
Michigan		●	●	●	●				●							●		
Minnesota	12								●	●	(H)	24		●	●			
Mississippi	15	●							(K)			36	36	●	●			
Missouri		●	●	●	●	●			●		(H)	24	24	●	●			

NOTES

* Youths of age listed or younger do not need a license. In addition, many states have special licenses for juveniles and non-resident trappers

A—Land use banned

B—Land use banned except in burrows; Tennessee allows use of "Soft Catch" traps on dry land

C—Allowed under permit only

D—Except by landowner

E—No toothed traps on land except on Conibears set for beaver

F—No teeth on leg-gripping traps allowed

G—Except when trapping gophers, moles, and ground squirrels

H—Size restrictions on land Conibears

I—No land Conibears allowed between December 31 and the following 4th Saturday in October

J—No lures, urine or baited fields allowed

TRAPPING REGULATIONS TABLE

STATE	NO LICENSE REQUIRED FOR CHILDREN*	TRAPPER/DEALER REPORTS	PITFALLS	DEADFALLS	SNARES	LEGHOLDS	TEETH	BAN				RESTRICTIONS			
								CONIBEAR 20-30 FROM TRAP	POISON	LEGHOLD SIZE	OFFSET JAWS	CONIBEAR SIZE	LAND SETS	WATER SETS	TRAP VISIT (hrs)
Montana								●						●	●
Nebraska	15		●	●		●		●			(H)	24			●
Nevada		●						●	●	●		96 ^Q	96 ^Q	●	●
New Hampshire		●		●				●			●	24	72 ^S	●	●
New Jersey					●		(A)	(L)			●	24	24	●	
New Mexico						(B)			●		●	48 ^Q	48 ^Q	●	
New York		●		●		(F)		(O)	●		(H)	24 ^T	24 ^T	●	
North Carolina				●		●			●	●	(H)	24	24	●	●
North Dakota		●		●	(N)			●							●
Ohio				●	●	●		(L)	(V)	(H)	24	24	●	●	
Oklahoma			●	●	●	●	●		●	●		24	24	●	●
Oregon	13	●				(G)		(M)	●	●	(H)	48	48	●	
Pennsylvania				●	●				●		(H)	36	36	●	●
Rhode Island		●		(C)	(C)	●		(C)	●			24	24	●	●
South Carolina		●	●	●	●		(A)		●		(H)	24	24	●	●
South Dakota	15						(A)	●	(O)		(H)	48	48		●
Tennessee				(N)	(B)				●	(V)	●	36	36	●	●
Texas		●	●	●				●			(H)	36	36		●
Utah		●						●	●	●		48	96 ^F	●	●
Vermont				●		●	(I)		●		(H)	24	72	●	●
Virginia	15	●		●		(A)			(V)	(H)	24	24	●	●	
Washington		●	●	●				●	●	●	(H)	72	72	●	●
West Virginia				●	(U)	(F)	(A)	(L)	●			24		●	●
Wisconsin				●		(A)		●	●		(H)	24		●	●
Wyoming												72		●	●

NOTES

K-No baits allowed

L-No exposed baits allowed

M-No visible bait within 15 ft. of trap set for carnivores in Eastern Oregon

N-Snare use restricted

O-No poison to kill or capture mink or beaver (in New York, also otter, raccoon, muskrat, and skunk)

P-Visitation requirement for killer traps

Q-No visitation requirement for killer traps

R-In some management units, 72 hr. visitation for land sets; none for water sets

S-Beaver sets under ice

T-In some management areas, 48 hr. visitation for land and water sets

U-Land use prohibited, except for footsnare

V-Size restrictions on land legholds

STATE REGULATIONS

Most states have provisions within their legal code allowing the destruction of animals that cause damage to livestock, property, and even presumed damage to wildlife. Some states still show an archaic view of animals in their legislation. Arizona, for example, permits the killing of Mountain Lions or Black Bears suspected of taking livestock (no verification of damage is required); regulations allow the use of poisons and explosives to take *any* nuisance animal if the loss is verified and a depredation permit is obtained; non-game animals are exempt from all regulations.

The list below contains state regulations included in trapping regulations pertaining to the destruction of nuisance and depredating animals.

STATE REGULATIONS PERMITTING PREDATOR AND RODENT CONTROL

<i>State</i>	<i>Regulation</i>
Alabama	Nuisance Beaver may be trapped at any time.
Alaska	Nuisance Beaver may be trapped, but a special permit is needed from the Game Department.
Arizona	Predatory Black Bears and Mountain Lions may be killed if suspected of causing livestock losses; poisons and explosives may be used to take any nuisance animal if the loss is verified and a depredation permit is obtained. Nongame animals are exempt from all regulations.
Arkansas	Beaver, Nutria, and Muskrat may be taken with a permit at any time if they are creating a nuisance.
California	The owner or tenant of land devoted to agriculture, as well as city, county, state, and federal animal control agents, may take nuisance animals under a written trapping agreement with the appropriate landowner while on such land and in connection with agricultural industry.
Colorado	Aircraft and motor vehicles may be used under permit to take Coyotes if a wildlife manager determines it necessary to protect crops or livestock. Permits are granted for 90 days and are renewable. A report of the animal killed is required. No permit is needed for a property owner to protect his property.
Florida	Leghold traps may be used to take animals destructive to personal property under permit. (This is the only legal use of leghold traps in the state.)
Idaho	Predatory animals may be hunted from aircraft for purposes of protecting land, water, crops, wildlife, livestock, and human life. A permit issued by the Department of Fish and Game must be obtained before hunting predatory animals from aircraft.

Iowa	In closed season one cannot take, capture, kill, or possess a furbearing animal except where such killing, trapping, or ensnaring may be for the protection of public or private property.
Kansas	Cyanide and other poisons may be used under permit from the Game Commission. Permits are given only after a predator control specialist from Kansas State University, Manhattan, has recommended in writing the use of such devices or means based on an investigation on the need for wildlife control. Permits are limited to landowners and legal tenants and are valid only on such land as is legally owned or leased. A homeowner may cut down trees or kill any furbearer found in or near buildings or doing damage.
Minnesota	Anyone aiding in recovering a pelt of a protected furbearer killed accidentally and lawfully while causing and threatening injury or damage gets 25% of the proceeds of the sale of the pelts. For some species (Fisher, River Otter, Marten, fox, Bobcat, Lynx or Gray Wolf), prior authorization is needed.
Mississippi	Fox and Coyote may be trapped year-round on property owned by the trapper.
Montana	Owners and lessees of real estate being damaged by Beaver may apply for a permit to trap them from local game wardens.
New Hampshire	Black Bears may be trapped by landowners or their agents when bears are doing actual damage to property. The Executive Director of the Game Department must issue the permit prior to trapping.
New Jersey	In cities in Bergen, Essex, Hudson, and Union Counties, owners may kill squirrels, Raccoon, Opossum, skunk, Woodchuck, or weasels doing damage subject to local ordinances. In other parts of the state, a permit from the Division must be obtained. Farmers may trap fox destroying poultry, crops, or property at any time. Steel jaw leghold traps may not be used.
Oklahoma	Landowners or lessees who kill Bobcat, Raccoon, or Gray Fox actually found destroying livestock or poultry are exempt from purchase of a trapping license, but these pelts may not be removed from the premises and sold. Beaver may be trapped by landowners at any time of year as may be necessary to prevent or relieve economic damage resulting from the activities of this species. Coyotes may be trapped year-round. Rabies control programs may take precedence over all trapping regulations. Furbearers may be killed if found destroying livestock or poultry. Federal Animal Damage Control agents may use Conibear traps even though these are banned in the state.
Rhode Island	A person may kill an animal that is "worrying, wounding or killing domestic animals or livestock on such property, or

	destroying, mutilating agricultural crops or fruit trees provided that the carcasses be presented to the Department within 24 hours." Pelts thus obtained cannot be sold except by permission of the Director. Leghold traps may be used by landowners or tenants to eliminate nuisance animals under permit. (This is the only legal use of leghold traps in the state.)
South Carolina	Under special permit, the taking, capturing, or transporting of any furbearer destroying or damaging private or public property, timber, or crops so as to be a nuisance is permitted.
Texas	Landowners or their agents may by any means take a furbearing animal causing depredation or nuisance on personal property. Landowners may prohibit a person from transporting a suspected diseased furbearing animal to a public health facility. Personnel of the Texas Department of Health or local public health agencies may take any furbearing animal posing a potential or known health hazard. All such cases are listed in the Department of Health's annual report. The Texas Animal Damage Control Program also functions in the state and, under federal direction, compiles all cases in an annual report.
Utah	Red Fox, skunk, Badger, and weasel may be killed without a trapping license when they are creating a nuisance or causing damage, provided the pelts are not sold. If they are sold, one must have a furbearer license. Beaver doing damage may be trapped during closed season after procuring a permit from the Division.
Vermont	Anyone may take Black Bear at any time in defense of his property. Anyone may take rabbits and other furbearers doing property damage. The Department of Game must be notified, however, within 48 hours, and a certificate must be obtained in the event the furs are sold.
Wisconsin	In cities, villages, and towns where firearms are not allowed, occupants may trap rabbits, Raccoons and squirrels in live traps and then kill them immediately. Woodchucks may be shot with a firearm or bow and arrow by the occupant or owner of the land they are located on. They may be trapped only by permit. During the closed season, a Department of Natural Resources permit is required to remove most nuisance animals.

1. *The New York Times*, March 6, 1988, Business Section, page 5.

2. Austria, Bangladesh, Belize, Botswana, Brazil, British West Indies, Burundi, Cameroon, Cayman Islands, Chile, Costa Rica, Cuba, Republic of Cyprus, Denmark, Dominican Republic, Finland, Gabon, Gambia, Federal Republic of Germany, Ghana, Greece, Guinea, Hong Kong, Hungary, India, Republic of Ireland, Israel, Italy, Ivory Coast, Jordan,

- Kenya, Liberia, Liechtenstein, Malawi, Malaysia, Mali, Mauritania, Morocco, Mozambique, Netherlands, Nicaragua, Niger, Nigeria, Norway, Republic of Panama, Portugal, Senegal, Seychelles, Republic of Singapore, Sri Lanka, Swaziland, Sweden, Switzerland, Tanzania, Togo, Trinidad and Tobago, Tunisia, United Arab Emirates, United Kingdom, Uganda, Upper Volta, Zambia, and Zimbabwe.
3. Animal names designating a particular species, such as the River Otter, are capitalized, while generic names denoting more than one species, such as rabbits or foxes, are not.
 4. Provisions do not apply in Lawrence or Limestone Counties.
 5. "In closed season" indicates that it is not legal on that date or time of year to trap that species.
 6. Written permission from landowners must be renewed annually.
 7. State lists of endangered species of mammals, birds, reptiles, and amphibians appear in *The Endangered Species Handbook*, published by the Animal Welfare Institute.
 8. H. T. Gier, *Coyotes in Kansas*. Department of Zoology, Kansas Agriculture Experiment Station, Bulletin 393, Contribution #994, 1957.

Chapter XI

MARINE MAMMALS

by Christine Stevens

For most of recorded history, marine mammals have been subjected to unrestricted killing which has wiped out whole populations and even entire species. The eighteenth, nineteenth, and twentieth centuries have been especially savage in decimating whales, seals and dolphins, creatures that inspire great love and admiration for their intelligence and beauty but whose protective covering of fat or fur make them targets for commercial interests.

MARINE MAMMAL PROTECTION ACT

Until 1972 when the federal Marine Mammal Protection Act was passed by Congress, laws for the protection of these unique animals were few. Florida passed a law (Section 370.12 (3)) against killing or capturing dolphins unless a permit had been secured from the Director of the Board of Conservation, and California passed a law in 1972 against shooting dolphins and whales (Sections 4500 and 4700 of the California Fish and Game Code). Other coastal states failed to provide even this minimal guardianship.

After bills providing total protection for all marine mammals were introduced in the House by Representative David Pryor of North Carolina and Senator Fred Harris of Oklahoma, a long series of hearings were held—the most extensive to date on any animal issue. Congressman John Dingell of Michigan and Subcommittee Counsel Frank Potter played a major role in writing the law which was enacted after four years of debate and adjustment. It was much less restrictive than the original bills, but much stronger and more comprehensive than any other law for protection of ocean mammals in the world.

It creates a moratorium on taking, which is broadly defined as killing, harassing, hunting, capturing or attempting to do any of the above to a marine mammal. It provides for waivers of the moratorium if the population of marine mammals is at its optimum sustainable population level, and permits are granted by the Secretary of Commerce who has jurisdiction over activities of U. S. citizens and residents with respect to whales, dolphins, seals and sea lions, or by the Secretary of the Interior who rules on walrus, sea otters, manatees, and polar bears. Penalties for violations include a fine of up to \$20,000 or a year's imprisonment or both. Any taking must be as humane as feasible.

The Secretary of the Treasury is authorized to pay up to \$2,500 to a person who provides information leading to a conviction under the Act. A Marine Mammal Commission was created to advise the Secretaries of Commerce and Interior on the Act's administration, including research, international programs and cooperative research with the states. There are prohibitions against taking of marine mammals on the high seas by U. S. citizens; possession, sale or transport of a marine mammal or any of its parts or products unless authorized by permit; importation into the U. S. of a marine mammal that is pregnant or nursing or less than eight months old at the time of taking. Exemptions to restric-

tions on taking are provided for natives so long as it is for subsistence and is not wasteful, and for scientific research and public display under special permits. Formerly, the government permitted the commercial killing of North Pacific fur seals under the authority of an international treaty. However, in 1984, the U. S. Senate failed to renew the treaty, and only subsistence killing by Aleut natives is now allowed.

DOLPHINS

More than 360,000 dolphins were killed by U. S. tuna fishermen in 1972. When the Act was passed, a 24-month exemption was provided for "incidental" take of dolphins injured or killed by U.S. fishermen in tuna purse seines. Following expiration of the 24-month exemption period, the tuna industry failed to live up to its promise to develop and adopt technology to reduce to "insignificant levels approaching a zero mortality and serious injury rate" the numbers of dolphins hurt or killed in the giant seines. The Commerce Department issued a permit to the tuna industry that failed to set any limit on the numbers of dolphins that could be killed or injured, failed to determine the impact of the taking on the populations, and failed to enforce even minimal protective regulations.¹ Consequently, environmental and animal welfare organizations sued the Department of Commerce and won a series of court decisions in 1976 and 1977. Those decisions led the tuna industry to go on strike. The purse seine fleet refused to fish under the regulations promulgated by the National Marine Fisheries Service in response to the court orders and lost millions of dollars. Then it sought to raise the quota of dolphins it could kill from the 59,000 allowed by the government to a total of 79,000. In an intensive lobbying effort, the industry flew a planeload of protesters equipped with signs and literature from San Diego to Washington, D. C. "Tuna Wives Against Regulation" appeared outside the Senate Office Building and created an overflow audience in the Senate's biggest hearing room. The Senate, however, took no action. The House of Representatives moved rapidly on a tuna industry bill sponsored by the new Chairman of the Merchant Marine and Fisheries Committee, John Murphy of Staten Island. However, a series of amendments in Committee and on the floor changed the bill so dramatically before passage that the industry dropped support for it.

Meanwhile, improved nets and greater care exercised by captains led to a massive reduction in the numbers of dolphins killed. At hearings in August 1977 on regulations promulgated under the Act, it was reported that a government-chartered research vessel had made 41 sets without killing a single dolphin. The industry, as a whole, killed one-quarter as many dolphins in 1977 as it had in 1976. The quotas were progressively "ratcheted down" over the succeeding years from 52,000 in 1978 to 20,000 for 1981 and thereafter. The use of information gathered by government observers aboard tuna vessels to enforce those quotas and related protective regulations was upheld in a series of court decisions between 1981 and 1984. However, in 1985 the regulations were changed to guidelines, and in 1986 the quota of 20,500 dead dolphins was reached before the end of the fishing season, causing enforcement and other problems that must still be resolved.

In the 1988 reauthorization of the Marine Mammal Protection Act, a provi-

sion was added to require observers on all U. S. tuna boats and to require foreign fishermen to adhere to U. S. standards. Although some restrictions on "sundown" sets were added, they are not sufficient to stop the massive kill of dolphins when the net is set after darkness has fallen.

In 1989 and 1990, bills were introduced by Representative Barbara Boxer and Senator Joseph Biden to require labeling of all tuna as "Dolphin Safe" or the reverse, "The tuna in this product was caught with methods that kill dolphins."

In April 1990, the biggest tuna canner in the world, StarKist, a subsidiary of the H. J. Heinz Corporation, made a public announcement that they will no longer purchase tuna caught in association with dolphins. Within hours of the press conference, the next two biggest tuna canners, Bumble Bee and Chicken of the Sea, followed suit.

Sam LaBudde, who went undercover to film the incidental killing of dolphins on a foreign purse seiner and whose film is widely credited with bringing about favorable action, praised Heinz's action as the first company to ban tuna caught at the expense of dolphins and urged closure of our borders to all tuna which is "dolphin unsafe."

ARGENTINE DOLPHIN PROTECTION

In an unusual judicial decision in Argentina, Japanese companies who had received permission to capture dolphins and ship them to Japan "to entertain the public" were prevented from proceeding. The case was brought by two Argentine conservationists. The judge upheld their plea that the projected capture would disrupt the family groups in which dolphins live, thus leading to emigration and death. This, in turn, said the judge, would upset the ecological balance and be economically harmful to future generations.

WHALES

During the period of struggle for the enforcement of the Marine Mammal Protection Act in the United States, an equally sharp conflict on the international level was occurring in the International Whaling Commission (IWC), a body created by treaty in 1946. The IWC had failed signally to conserve the great whales. The blue whale, the largest creature that has ever lived on earth, was reduced to commercial extinction under the aegis of the IWC. In 1965, the last year that the IWC nations pursued it, only 20 of the great animals could be found to kill in the Antarctic. At that point, the Commissioners voted to protect it from further killing!

Before final extinction became imminent, an attempt was made to develop an instant stunning method to reduce the terrible suffering inflicted by the explosive harpoon, a delayed action grenade that bursts in the whale's vitals, but may take hours to kill. Dr. Harry Lillie, who sailed as ship's surgeon to a whaling fleet, described a death thus:

The present-day hunting harpoon is a horrible 150-pound weapon carrying an explosive head which bursts generally in the whale's intestines, and the sight of one of these creatures pouring blood and

gasping along the surface, towing a 400-ton catching vessel by a heavy harpoon rope, is pitiful. So often an hour or more of torture is inflicted before the agony ends in death. I have experienced a case of five hours and nine harpoons needed to kill one mother Blue Whale.

If we could imagine a horse having two or three explosive spears being driven into it, and then made to drag a heavy butcher's truck, while blood poured over the roadway until the animal collapsed an hour or more later, we should have some idea of what a whale goes through.

The same method continues to be used today, though it does not take as long to kill the smaller whales targeted now that the blue whale is commercially extinct. Secretary of the Interior Walter Hickel put all the great whales on the United States Endangered Species List in 1971, stating, "It would be a crime beyond belief if, in the same decade we walked on the moon, we also destroyed the largest animal there ever was." He analyzed the whalers' relentless pursuit of smaller and smaller whales, noting, "As they go down the line, they must kill more whales, and even porpoises, to make the business barely pay. In 1930-31 some 43,000 whales yielded 3.5 million barrels of oil. In 1966-67, 52,000 whales yielded a mere 1.5 million barrels."

By 1985, so few whales remained that only Japan and the U.S.S.R. still actively engaged in Antarctic pelagic whaling. Norway gave up large-scale whaling at the end of 1968 but kept 150 vessels specially equipped to catch small whales. By 1986, these were reduced to 55 under pressure from the IWC and conservationists. Thirty-six nations are members of the International Whaling Commission; only those marked with asterisks are still conducting commercial whaling: Antigua and Barbuda, Argentina, Australia, Brazil, Chile, People's Republic of China, Costa Rica, Denmark, Finland, France, Federal Republic of Germany, Iceland*, India, Ireland, Japan*, Kenya, Republic of Korea, Mexico, Monaco, The Netherlands, New Zealand, Norway*, Oman, Peru, St. Lucia, St. Vincent and the Grenadines, Senegal, Seychelles, Republic of South Africa, Spain, Sweden, Switzerland, Soviet Union, United Kingdom, United States and Uruguay.

In 1971 the U.S. Senate and House of Representatives passed resolutions requesting the Secretary of State to seek a ten-year international moratorium on the commercial killing of whales, and in 1972 this proposal was unanimously adopted at the Stockholm Conference on the Human Environment with only three abstentions: Japan, Brazil, and South Africa. However, when the International Whaling Commission met a few weeks later, it rejected the proposed moratorium out of hand, and even when a majority vote for the moratorium was obtained in 1973, it failed to win the three-quarter majority required by "the whaler's club," as the IWC was then commonly known.

After this vote (8 to 5 with 1 abstention) the U. S. government, which had been leading the fight to save the whales, settled for the "New Management Scheme" whereby species or populations of whales that fall more than 10% below "maximum sustainable yield" are automatically protected. While this system brought desperately needed relief to fin whales in most parts of the world, it suffered from the extreme weakness of the data base and, even worse, the doubt about the validity of maximum sustainable yield itself, especially as it

applied to creatures who only bear a single infant each two to five years.

Between them, Japan and Russia were harpooning 85% of all whales killed each year; however, in 1977 Japan reduced her whaling fleet to one factory ship and its attendant catcher boats, resulting in a strike at the docks by the crewmen. Ten years later, the last Soviet factory ship was retired from whaling and restructured as a fishing vessel.

The campaign to save the whales has made greater progress than any other international attempt to protect endangered animals. It greatly increased in intensity and extent after Japan and Russia filed objections to conservation decisions taken at the 1973 meeting of the IWC and stated that they would not adhere to them. A strongly worded cable signed by Secretary of State Henry Kissinger concluded:

Such wholesale disregard for views of all other member nations with few exceptions leads to several questions. Why should there be a Commission if its decisions can simply be ignored? Why should scientific committees prepare recommendations? And why should twelve of fourteen member nations push for improvements in the International Whaling Commission if progress made can be destroyed by one or two nations?

The number of organizations supporting the boycott campaign against Japanese and Russian products increased, and the American Federation of Labor and Congress of Industrial Organizations passed a resolution at its 1974 Convention calling on Japan and Russia to "cease the hunting of whales" and urging "the Administration to bring pressure on these nations to comply with world sentiment . . ."

When Dr. Colin Clark, a University of British Columbia mathematician, wrote a paper for *Science* (August 17, 1973) demonstrating that commercial whalers could make a higher profit by killing whales to extinction than by following a conservation regime, the explanation for the drastic decimation of all species of great whales became clear.

Reductions in quotas and divisions of ocean areas were made from 1972 onward. Each year quotas were lowered, though critics pointed out that the inability to fill the quotas made the progress less substantial than it appeared. The meeting in Canberra, Australia in 1977 made a record quota cut of 36%—more than 10,000 below the 1976 quota, and the 1984 meeting in Buenos Aires, Argentina cut quotas by nearly 40% and banned killing of sperm whales.

The boycott campaigns coordinated by the Animal Welfare Institute and involving twenty large conservation and humane groups played a major role in bringing about the change. More than 450 demonstrations were conducted in the United States calling for the moratorium on whale killing. When Emperor Hirohito made his historic visit to the United States in 1975, many public pleas were made to him. Most newsworthy was the one described by *The Washington Star* as follows:

The lawn was rain lush green and the sun pushing through overcast skies as Hirohito, the 124th emperor of Japan and the first of his line to visit the continental United States, alighted from his limousine at the White House South Portico and President Ford walked forward

to shake hands. Suddenly a loud buzz pierced the decorous calm and a tiny plane trailing a 100-foot long banner flew through the northern sky. 'Emperor Hirohito Please Save the Whales' said the banner. The message from the Animal Welfare Institute, a leader in the fight to preserve the world's dwindling whale population, was one of a surprisingly few unanticipated events to challenge security forces during the Emperor's first day in Washington . . . The tiny plane never flew closer than three blocks north of the White House and did not violate its air space according to the Federal Aviation Administration.

Demonstrations outside the meetings of the International Whaling Commission have been a regular part of the proceedings since 1973. Public protest and press coverage in Australia in 1977 were greater than any seen before, and at the 1979 meeting in London, England, the whole of Trafalgar Square was filled with demonstrators against commercial whaling.

In an interview by Joseph Glascott in *The Sydney Morning Herald*, Soviet Commissioner Nikonorov stated that it cost \$95 million to send the Russian whaling fleets out on the seas each year. This figure suggested that the industry, though not quite dead, was rapidly dying, sustained only by subsidies. But would it end before the whales had fallen so low that they could not possibly regenerate?

President Carter set a protective limit around the shores of the United States for 200 miles in accordance with the Marine Mammal Protection Act and the 200-mile fisheries zone voted by Congress. Thus, Japanese and Soviet killer boats and factory ships were unable to sail, as had been their wont, up to 12 miles of the Hawaiian and Californian coasts to harpoon sperm whales.

In 1979, Senators Robert Packwood of Oregon and Warren Magnuson of Washington successfully proposed a powerful whale protection amendment to the U. S. Fishery Conservation and Management Act. The Packwood-Magnuson Amendment cuts a nation's fish allocations within the U. S. 200-mile limit by at least 50% upon certification by the Secretary of Commerce that the nation has "diminished the effectiveness" of the International Whaling Commission's whale conservation program. The amendment further provides an automatic cut-off of all fish allocations if the offending nation fails to rectify the violation within the year.

This law was especially significant with regard to the world's biggest whaler, Japan, because its allocation of fish in 1980 amounted to approximately \$500,000,000 yearly within the U. S. 200-mile zone.

Australia was a whaling nation fiercely defensive of whalers until whales became an election issue because of the intense media interest in 1977. The winning party promised an official inquiry on whaling, and on the opening day of the hearing, the last Australian whaling company announced an end to its operations. The Inquiry, conducted by High Court Judge Sir Sydney Frost and published in two volumes, is a powerful indictment of commercial whaling.

The unmasking of pirate whaling by Japan's Taiyo Fisheries, the biggest fishing company in the world, came in 1979 after long and dangerous undercover work. Films shot aboard the notorious pirate whaler *Sierra* were given major European television coverage. Shocked viewers saw the severely endangered humpback whales, whose recorded songs have thrilled millions, being

harpooned by the Norwegian gunner and dragged aboard by the South African crew for the four Japanese whalemeat inspectors who were paid by Taiyo Fisheries to do the butchering of choice parts. The rest of the carcasses were thrown back in the sea. Tail meat from humpback whales has been described as specially favored by whalemeat gourmets.

In 1980 a moratorium on the killing of sperm whales was nearly adopted by the International Whaling Commission, but Canada, a nation that had ceased all commercial whaling in 1973, voted with the whaling nations and incurred such wrath at home and abroad that it subsequently dropped out of the IWC.

Meantime, cold harpoons, which take even longer to kill whales than explosive harpoons, were banned by the IWC for all except minke whales, the smallest whales included in IWC quotas, and in 1982 the Norwegian Animal Protection Society sued their government's Fisheries Department for violating Norwegian anti-cruelty statutes in the killing of minke whales. "The killing time was lengthy—an average of 27 minutes," the plaintiff averred. The Norwegian whalers fought to keep them but finally abandoned cold harpoons.

In 1980 the IWC recognized the existence of ethical questions regarding the whales themselves and sponsored a meeting on "Cetacean Behavior and Intelligence and Ethics of Killing" at the Smithsonian Institution. Dr. Roger Payne, who had brought the songs of the humpback whale to public attention, wrote a paper on ethics, and scientists who have studied brain structure were emphatic: Dr. Peter J. Morgane wrote, "In destroying our neurological relatives we are perpetrating genocide and will lose the knowledge of another entire world. What a price to pay for limited, local, nationalistic profit and outright greed!"

A conference on the Non-Consumptive Utilization of Cetacean Resources was sponsored by the IWC and whale conservation groups in 1983.

The long-sought moratorium on commercial whaling was finally brought to a successful vote at the 1982 meeting of the IWC in Brighton, England. The Seychelles moved the resolution; Sweden, St. Lucia, Australia, New Zealand, and Oman seconded it; and it passed 25 to 7 with 5 abstentions. Despite this overwhelming vote, whaling nations threatened to file objections to avoid being bound by the IWC decision. Sixty-six United States Senators, led by Senator Robert Packwood, wrote to Secretary of Commerce Malcolm Baldrige:

Our key concern, which we are certain you share, is to insure that this epochal decision by the IWC is honored by the whaling nations. The United States must, during the coming period, undertake every diplomatic means open to it to prevent the whaling nations from filing objections to the moratorium decision.

The Pelly Amendment to the Fishermen's Protective Act and the Packwood-Magnuson Amendment to the Fishery Conservation and Management Act represent the best and most credible deterrents available to prevent nations from subverting the IWC by means of objections or through leaving the Commission. In order to avoid any thought that the U. S. can be 'faced down' on the whaling issues, we should make it absolutely clear *now* that the United States *will invoke* these amendments against any nation violating IWC decisions.

A favorable reply was received to this letter. Nevertheless, Japan, Russia, Peru, and Norway filed objections.

Iceland's Fisheries Minister also wanted to object but was overruled in Parliament on a move by the Foreign Relations Committee. Each Member of Parliament appeared on television giving his vote, and the whales won 29 to 28! Nor did the two other whaling nations, Brazil and Korea, file objections. So when Peru was persuaded by diplomatic negotiation and activist protests to withdraw her objection, only the three hard-line whaling nations remained unmoved.

Delegates to meetings of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1981 and 1983 voted to place all ten species of great whales on Appendix I, the minke to become so in 1986, consonant with the IWC moratorium. Appendix I species (endangered) may not move in international commerce among CITES member nations who, at the time, numbered 97. Thus, despite reservations filed by Japan and Russia to these listings, they were hard pressed to find trading partners.

The Departments of State and Commerce set yearly allocations to foreign nations permitted to fish in U. S. waters, and in 1983 Japan's allocation was cut by more than 170,000 metric tonnes, worth approximately \$60 million. Nevertheless, Japan made no move toward withdrawing objections to the moratorium due to being at the end of 1985 or to the zero quota on sperm whales.

At the 1984 IWC meeting in Buenos Aires, the ban on sperm whaling was affirmed, and the United States government informed Japan that the Packwood-Magnuson Amendment would be invoked if any sperm whales were killed. Nevertheless, the Japanese sperm whale fleet sailed and reportedly killed whales while Japanese negotiators were in all-night sessions with Washington officials to persuade them not to enforce the law cutting off half of Japan's allocation of fish in U. S. waters. At first it seemed the United States had succeeded; the killer ships returned without dead whales. But the negotiations resumed with higher pressure at higher levels, and the United States capitulated, agreeing to allow four more years of sperm and other whaling in return for Japan's withdrawal of its objections to the sperm whaling ban and moratorium, effective in April 1988—two years after all commercial whaling was supposed to cease.

A decision was quickly reached by whale protective groups that the struggle must move to the courts. Senator Packwood appeared at a packed press conference where he made clear that "It [the Packwood-Magnuson Amendment] is absolutely mandatory, not discretionary policy. It leaves no wiggle room or gray area in which representatives of our government can negotiate with the Japanese or any other foreign power to take sperm whales." The lawsuit sought to compel the Secretaries of State and Commerce to enforce U. S. law penalizing any nation that "diminishes the effectiveness" of the International Whaling Commission.

Judge Charles Richey ruled on March 5, 1985:

In view of the foregoing, the Court, by Order of even date herewith, will grant the plaintiffs' motion for summary judgment, deny the defendants' motion for summary judgment and deny the defendant intervenors' motions for summary judgment and to dismiss, and order the defendants Baldrige and Shultz to immediately certify to the President that Japan is in violation of the IWC sperm whaling quota and

enjoin them permanently from agreeing not to reduce, or failing to reduce, Japanese fishing quotas in consequence of such certification, and thus save another vital national, if not international, goal of the preservation of an almost extinct species of vital importance to humankind.

The U. S. government, joined by the Japanese Whaling Association and Japanese Fisheries Association, appealed the District Court decision. On August 6, 1985, the U. S. Court of Appeals issued a two-to-one decision upholding the decision, but the government and its cohorts appealed again to the Court of Appeals *en banc* on September 18, 1985.

On October 11, 1985, the Court of Appeals denied the *en banc* request. The United States government and Japanese groups then appealed to the Supreme Court. On January 13, 1986, the Supreme Court agreed to hear the appeal. Oral arguments before the nine Supreme Court Justices were heard on April 30th. A five-to-four decision reversing the lower court decision was handed down June 30, 1986. The minority opinion, written by Justice Thurgood Marshall and supported by Justices Blackmun, Brennan, and Rehnquist, concluded as follows:

It is uncontested here that Japan's taking of whales has been flagrant, consistent and substantial. Such gross disregard for international norms set for the benefit of the entire world represents the core of what Congress set about to punish and to deter with the weapon of reduced fishing rights in United States waters. The Court's decision today leaves Congress no closer to achieving that goal than it was in 1971, before either Amendment was passed.

I would affirm the judgment below on the ground that the Secretary has exceeded his authority by using his power of certification, not as a means for identifying serious whaling violations, but as a means for evading the constraints of the Packwood Amendment. Even focusing, as the Court does, upon the distinct question whether the statute prevents the Secretary from determining that the effectiveness of a conservation program is not diminished by a substantial transgression of whaling quotas, I find the Court's conclusion utterly unsupported. I am troubled that this Court is empowering an officer of the Executive Branch, sworn to uphold and defend the laws of the United States, to ignore Congress' pointed response to a question long pondered: 'whether Leviathan can long endure so wide a chase, and so remorseless a havoc: whether he must not at last be exterminated from the waters, and the last whale, like the last man, smoke his last pipe, and then himself evaporate in the final puff.' (H. Melville, *Moby Dick*, 436 (Signet ed. 1961))

Japan withdrew its objection to the moratorium within one week of the Supreme Court decision. However, it decided to evade the commercial whaling moratorium by redefining its whaling as "scientific research" or "coastal subsistence." The Soviet Union stated it would suspend its commercial whaling by April 1987 and confirmed that it had done so at the June 1987 meeting of the IWC in Bournemouth. The last Soviet whaling factory ship was remodelled as a fish factory ship, and whaling ended.

At this meeting a resolution was proposed by the United States to define

scientific permits and clearly differentiate scientific study from the commercial whaling which Japan, Iceland, and South Korea hoped to conduct under the pretext of scientific inquiry. The resolution was divided in two parts and adopted by majorities of 17 to 7 with 8 abstentions and 19 to 6 with 7 abstentions, and was followed by a series of votes against the proposals made by these three nations to issue scientific permits to kill whales and sell their meat and oil.

At the 1988 and 1989 meetings of the IWC, proposals for "research" whale killing continued to be rejected by the Commissioners and IWC's Scientific Committee, but Japan and Norway went on issuing themselves "scientific permits" for whales subsequently sold in commerce. Iceland, which sells the meat from its "research whaling" to Japan, stopped in 1989 after killing 60 whales, but Japan killed 273 minke whales under the permit it granted itself.

Because of continued whaling in the guise of research, the moratorium has not occurred, despite the overwhelming majority vote for it by IWC nations. At the 1990 IWC meeting, moves by Norway, Iceland and Japan to bring an end to the indefinite moratorium did not succeed. The Commission adopted three significant resolutions: (1) to support the United Nations resolution restricting driftnets; (2) to require Japan to follow the advice of the Scientific Committee to reduce killing of Dall's porpoises; and (3) to assess and report on the small cetaceans at risk throughout the world.

SEALS

Passage of the Marine Mammal Protection Act brought an end to the importation of the pelts of baby harp and hooded seals from Canada. An attempt by Bergner Furs to bring in 10,000 skins of baby seals under an economic hardship exemption in the first year of the Act's operation was dropped at the last moment. However, the Fouke Fur Company of South Carolina, which claims special processing expertise for fur seal pelts, fought a series of court battles against environmentalists who pointed out that many of the South African fur seals were still nursing when they were clubbed and that the kill was far from humane. A horrifying description in *The London Sunday Telegraph* of the seals crying out in agony and vomiting milk was corroborated by American veterinarians sent by Secretary of Commerce Frederick Dent to oversee the slaughter. The Secretary denied entry to the pelts for the year of 1974-75. However, the following year the seal skins from South Africa were allowed to enter the United States. In 1977 Judge Skelly Wright ruled against entry of the skins because the seals were less than eight months old and nursing when killed.

During the period in which the federal government has had control, no non-natives have been able to engage in commercial sealing in Alaska. However, the state may seek return of management and, if it should succeed, the massive commercial slaughter of baby seals and sea lions could, once more, take place. In fact, a greatly increased killing of beluga whales, sea otters, polar bears, and walrus by non-natives would probably also be allowed if management is returned to the state.

The Interim Convention on Conservation of North Pacific Fur Seals was adopted in 1957 and has been extended by protocols, the most recent of which expired in 1984. The Convention prohibits pelagic sealing by the parties: Japan, U.S.S.R., Canada, and the U. S. The pelts from fur seals clubbed and skinned by

Aleuts on the Pribilof Islands under U. S. government supervision have been divided among the parties, with the Fouke Fur Company processing the skins.

The total fur seal population is less than half its original level, and it is declining by 3% each year. Entanglement of fur seals in driftnets and debris is suspected as a primary cause of the decline, but the causes have not been fully identified nor have steps been taken to reverse the decline which could reduce the population by half again within a decade. Despite the continuing decline, on October 12, 1984, the parties to the Convention signed a protocol that, upon acceptance by all four parties, would extend the Convention until October 13, 1988. Japan, Canada, and the Soviet Union ratified the 1984 protocol. On March 20, 1985, the President transmitted the protocol to the Senate, requesting its advice and consent. On June 13, 1985, a hearing was held on this issue before the Senate Committee on Foreign Relations, but the United States did not ratify the Convention, and it therefore expired. As a result, fur seals are now subject to domestic laws only.

In consultation with the Departments of State and Justice, and the Marine Mammal Commission, the National Oceanic and Atmospheric Agency (NOAA) determined that no commercial harvest could be conducted under existing domestic law, absent Senate ratification of a protocol extending the Convention or provisional application of the protocol. NOAA promulgated rules to govern subsistence taking of North Pacific fur seals under the authority of the Fur Seal Act and the Marine Mammal Protection Act. The purpose of the interim rule was to limit the take of seals to a level providing for the legitimate subsistence needs of the Pribilovians and to restrict taking by sex, age, and season for herd management purposes. In 1985, 3,713 seals were taken under those rules; 1,423 in 1986; 1,802 in 1987; 1,258 in 1988; and 1,521 in 1989—down from more than 20,000 killed under the Convention in the early 1980s.

France has highly protective legislation for seals. Under a decree issued June 8, 1961, destroying, pursuing, or capturing, even without the intention of killing them, is prohibited along most of its coastline.

Denmark, on August 1, 1977, banned killing of seals in Danish waters, initially for a one-year period. Now massive death of seals in the North Sea threatens the very existence of seal populations in that part of the world.

The Convention on the Conservation of Antarctic Seals was ratified by the U. S. Senate and signed by President Ford in 1976. Unfortunately, there is no inspection or enforcement under this Convention, and the United States pointed out this weakness in ratifying it, with a view to strengthening it at a future date.

In 1983 the European Community put into effect a two-year ban on seal pelts. This ban, subsequently extended to 1989, effectively destroyed the West European market for pelts. In 1989 the European Parliament voted to make the ban permanent.

POLAR BEARS

The first protection for polar bears came through enactment of a federal law prohibiting hunting by plane. Passed in 1973, the law ended Alaskan sport hunting of polar bears by pursuing the animals with planes. Approximately 300

polar bears had been killed in this way each year, about 25% being females.

On May 26, 1976, a polar bear treaty went into effect after being ratified by Norway, Denmark, the U.S.S.R., and the United States. Canada is the other party to the treaty. The Senate Report noted that the polar bear:

. . . once roamed the shores of Manchuria, Japan and Iceland, but intensive hunting has eliminated it from all but the most inaccessible regions of the north. The polar bear has no natural enemies and is clearly the dominant species of the Arctic. The estimates of the world-wide population of those animals range between 5,000 and 20,000. Despite these low population estimates, the annual polar bear kill is about 1,300. By 1970 the situation had become desperate enough for the world's leading polar bear experts to meet in Morges, Switzerland, to issue an appeal to the five polar bear nations to drastically curtail harvests of these animals . . . there is a large illegal market for polar bear hides, and it is estimated that the illegal catch almost equals that of the legal take.

The Convention prohibits use of aircraft and large motorized vessels for the purpose of taking polar bears "except where the application of such prohibition would be inconsistent with domestic laws."

Although the number of polar bears killed by trophy hunters declined with the ban on aerial hunting and the general ban on taking by non-natives under the Marine Mammal Protection Act, several factors pose threats to the polar bears in Alaska. They are disturbed, illegally shot, and their denning areas and other habitat are destroyed by oil and gas exploration and development activities. In addition, a disturbingly large number of female polar bears with dependent cubs are killed by Alaskan natives who are not subject to limitations on the number, sex, or age of bears taken. In some cases, the skins have been sold in exchange for cocaine for ultimate sale in Japan.

SEA OTTERS

Sea otters were forced to the verge of extinction by the fur trade. Constant vigilance is necessary to protect these delightful animals. Friends of the Sea Otter², an organization specifically dedicated to their protection, has led the battle to secure protection for the California sea otter population which numbers less than 1,500 animals and is listed as "threatened" under the Endangered Species Act. Oil spills from offshore rigs and tanker collisions could wipe out the entire population. Illegal incidental taking in fishing nets and shootings by fishermen result in the death of more than 100 otters each year and may well be causing the population to decline. Increased law enforcement and moving some otters to more secure locations are essential to their recovery.

In 1985 the California Legislature passed a law restricting gill nets to specific areas and depths in an attempt to reduce sea otter deaths through entanglement. The law closes coastal waters out to the 15-fathom curve to trammel nets and all except small-mesh gill nets in part of the sea otter range. The law also requires the Department of Fish and Game to explore feasibility of alternatives to trammel nets for taking California halibut.

Conservationists are greatly concerned over a possible revival of the fur trade through proposed killing of several hundred sea otters in Alaska if the federal government should return management to the state. Under federal enforcement of the Marine Mammal Protection Act, commercial trade in sea otter fur is illegal. But an Aleutian native attempted to use sea otter pelts for non-traditional commercial purposes contrary to the provisions of the Act. He was successfully prosecuted. Six Japanese oceanariums and aquariums have sought permits to take groups of Alaskan sea otters, and fishermen in Prince William Sound set off dynamite to rid the area of orcas and sea otters.

In 1989, all of these hazards were dwarfed by the catastrophic oil spill in Prince William Sound when the *Exxon Valdez* supertanker rammed submerged rocks and ran aground, pouring millions of gallons of oil into the pristine waters. Exxon tried to claim, "There has been no evidence of dead mammals found." On the contrary, only a month after the spill, 1,500 oiled sea otters had been captured for treatment. One veterinarian, Donald Sawyer, from Michigan State University, reported that during his eleven-day stay, 170 sea otters were saved, but about an equal number died or were dead on arrival. It is not possible to estimate the numbers of mammals and birds that simply disappeared as a result of the intense pollution.

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1. The first prosecutions were announced in August, 1977.
 2. Friends of the Sea Otter, Big Sur, California, 93920.

Chapter XII

BIRDS

by Greta Nilsson

HISTORY OF STATE LEGISLATION

State laws have formed the basis for much federal legislation in the United States. In the 19th century, egrets, herons, spoonbills, and songbirds were slaughtered by the thousands to supply feathered plumes for women's hats and for sale in markets as food. A landmark bill was enacted in 1886 by the State of New York to stop this killing that was threatening many species with extinction. Unregulated killing had already brought about the demise of the Great Auk,¹ a flightless sea bird much prized for its meat, in 1844 and that of the beautiful Labrador Duck, a species once common in New England and eastern Canada, in 1875. This law declared, in part:

The New York Bird Law Chapter 427

An Act For the Preservation of Song and Wild Birds

Section 1. No person in any of the counties of this State, shall kill, wound, trap, net, snare, catch, with bird lime, or with any similar substance, poison or drug, any bird of song or any linnet, blue bird, yellow hammer, yellow bird, thrush, woodpecker, cat bird, peewee, swallow, martin, blue jay, oriole, kildeer, snow bird, grass bird, grosbeak, bobolink, phoebe bird, humming bird, wren, robin, meadow lark or starling, or any wild bird, other than a game bird. Nor shall any person purchase, or have in possession, or expose for sale any such song or wild bird, or any part thereof, after the same has been killed.

This law further prohibited the destruction of nests and eggs and granted exceptions for scientific collecting under permit. As penalties, the New York Bird Law mandated that persons found guilty shall be punished by a jail sentence of "not less than five or more than thirty days, or to a fine of not less than ten or more than fifty dollars, or both, at the discretion of the court." Exempted from the provisions of the bill were English Sparrows (*Passer domesticus*), a species already established as an exotic species in many parts of the country and considered a major pest by farmers.

Other states enacted similar legislation, and had all states done so, the extinctions of the Passenger Pigeon (*Ectopistes migratorius*), a species that once numbered in the billions, and that of the Carolina Parakeet (*Conuropsis carolinensis*), America's only native parrot, might have been prevented. Both became extinct in 1914, having suffered catastrophic population declines in previous decades as a result of overhunting, killing for sale in meat markets, killing as pests, and capture for the pet trade.

While state laws did much to curb market hunting of native birds, federal legislation became necessary because of illegal killing of birds and their trans-

port to other states where they were sold. The Lacey Act, a federal law that prohibits interstate transport and sale of birds and other wildlife protected from killing by individual state laws, was enacted in 1900. The Lacey Act will be discussed later in this chapter.

These state laws, which were gradually enacted throughout the country, still provide protection for our native birds and remain of major importance because of continued illegal killing. The federal Migratory Bird Treaty Act, enacted in 1914, was in large part derived from these state laws and, in fact, is very similar to the New York Bird Law of 1886.² Its international scope and establishment of hunting regulations on game birds added to the force of state laws. (See Migratory Bird Treaty Act section in this chapter.)

Copies of state laws may be obtained from the Wildlife Department of each state or from the Association of Systematics Collections.³ Most state laws differ in terms of penalties for offenses, and many extend protection only to songbirds, not birds of prey or other species. The Migratory Bird Treaty Act does protect birds of prey from killing, except for crows, stipulating that states may enact hunting seasons on crows. In a few states, crows may be hunted year-round; the Fish and Wildlife Service is presently studying these state regulations to determine whether they violate the Migratory Bird Treaty Act.

SALE OF EXOTIC BIRDS

In 1984, 98 years after New York's Bird Law prohibited the sale and killing of native birds, another landmark bill, known as "The Wild Bird Law," was enacted by the New York State Legislature. This law prohibits the sale of exotic wild birds, a cruel and destructive trade that involves the mortality of 50% or more of birds captured for the cage bird trade. An additional 20-30% die in transport and quarantine. (See Humane Transportation Regulations in this chapter.) Customers in pet stores, seeing the docile parrots and chattering finches, rarely realize that these birds are the survivors of a trade that kills about 15 million birds per year.

Many of these wild parrots, parakeets, cockatoos, finches, waxbills, and the myriad other species taken from the wild each year go into shock upon capture and die within minutes. Bird lime, an adhesive smeared on branches to which bird feathers or feet stick when they land, is a favorite method of taking parrots in Africa. In South America, long poles are erected with a decoy bird tied to the top of one to attract wild parrot flocks. When a parrot or macaw lands on one of the other poles, its foot is caught in a rope noose and the bar on which it is perched flips down so that the bird hangs upside down by its foot until the bird trapper arrives to "free" it. Small birds are taken in mist nets or basket traps, and baby birds are taken from their nests, often by cutting the tree down. The chicks that survive the fall are usually crowded, stressed, and poorly fed on their way to pet stores in the U. S. Some pet dealers call these birds "hand-raised" to give the impression that they were born in captivity. Many wild parrots die as they are smuggled over the Mexican border stuffed into car door panels and trunks. Others arrive with Newcastle Disease, which killed or led to the killing of some 12 million chickens and turkeys in California in 1972. The epidemic was spread by an escaped parrot. To prevent further epidemics, the U.S. Department of Agriculture supervises a quarantine program to screen for the presence of New-

castle Disease in imported birds.

Threats to human health, including psittacosis or "parrot fever," avian tuberculosis, and salmonella, are presented by many wild birds sold as pets.

Many species of birds have already become endangered, and several may become extinct as a result of the demands of the pet and aviculture trades; others are suffering catastrophic declines. Spix's Macaw, a beautiful blue parrot native to Brazil, has probably become extinct in the wild, according to a 1988 survey by the International Council for Bird Preservation. These birds can sell for as much as \$100,000, and chicks from the last known pair were confiscated in Brazil recently; the pair has now disappeared.

Because there is no way to permanently mark birds that pass through quarantine in the U. S. so that they can be differentiated from smuggled birds, both are sold side by side in U. S. pet stores, threatening healthy birds, the customers, and the poultry industry.

The only solution to this unnecessary trade is to limit the sale of pet birds to those raised in captivity. This is precisely what the New York Wild Bird Law does. Under regulations drawn up by the Department of Environmental Conservation in New York State, exemptions are made for zoological and research institutions, and bird breeders are allowed to continue to buy wild birds for seven years. The pet industry claimed that the bill would cause financial hardship to pet stores, but the opposite has happened since the Act came into force. Pet dealers, according to *The New York Times*, have shown increased profits because captive-bred birds are worth more, due to their better health, tameness, and the consumer's awareness that these captive-bred birds will make better, longer-lived pets than their stressed, wild counterparts.

STATE NONGAME AND ENDANGERED SPECIES LAWS

In 1977, Colorado became the first state to enact legislation to protect, preserve, and study nongame species, or those not considered game or huntable species. These state laws, now enacted in 34 states, have been funded in various ways, but most derive monies from checkoffs on state income tax forms, which permit individuals to donate all or a portion of tax rebates to nongame programs. Funds are spent on surveys, habitat acquisition, re-introduction of species that have become extinct in states, and other related programs. Many states have separate endangered species legislation and nongame programs, while some combine the two. Tax checkoffs raised \$8.9 million for wildlife in 1985, with New York leading by bringing in \$1.7 million.

These states have employed wildlife biologists, some states having several biologists from different fields, who now share the headquarters of state wildlife departments with the traditional hierarchy of game biologists. One state that has combined its wildlife programs into a central fund is Missouri. This state's revenues dwarf all others and exceed even the federal budget for the Endangered Species Act. From a state sales tax of $\frac{1}{8}$ of one percent, Missouri's wildlife programs receive some \$42 million annually. Eighty percent of this is spent on habitat acquisition, benefiting both game and nongame species. Forty-eight states, all except Alabama and Arizona, have endangered species laws, some far more inclusive than others. Under each of these laws, species are designated under

various categories including endangered, threatened, rare, declining, and indeterminate. Species of mammals, birds, reptiles, and amphibians listed by various states under the categories of endangered, threatened or rare (as of 1985) may be found in the Animal Welfare Institute's *The Endangered Species Handbook* (second edition) published in 1986. In addition, many state laws include fish, invertebrates, and plants. Copies of these laws may also be obtained from state wildlife agencies, nongame divisions. Alabama and Arizona, both states with many rare and declining species, should be encouraged to enact endangered species legislation.

Citizen participation in the selection of species is encouraged in many states, but often state lists are far less inclusive than independent reports have recommended. The book mentioned above lists some of the state reports on endangered species; many of these reports were carried out by independent authorities, such as a jointly authored report by the Carnegie Museum of Natural History and the Pennsylvania Wild Resource Conservation Fund in 1985 entitled *Species of Special Concern in Pennsylvania*. Florida's species have been studied in great detail in a series of reports on mammals, birds, amphibians and reptiles, fishes and plants by the Florida Audubon Society and Florida Defenders of the Environment. These and other publications make recommendations to states on species that need to be added to state lists. Often, state lists are extremely limited, some including only species listed by the federal Endangered Species Act of 1973, and activists would accomplish a great deal if they would encourage states to follow the recommendations of these reports and the advice of outside experts. In general, these reports are known to only a few, and the general public is unaware of the scope of state programs. Interested citizens should obtain copies of their state laws.

The Nature Conservancy, an international organization headquartered in Arlington, Virginia, has developed a data bank of rare, unique, and declining species of wildlife and plants and programs to preserve these species' habitats. These Natural Heritage Programs are now established in all 50 states, and they have proved crucial to many species not now protected under state laws.

Local "Adopt a Species" or state-wide funding appeals could raise public awareness of the endangered and rare species in each state and bring about more active programs and legal protection. Especially in need of protection are nesting colonies of shore and wading birds, which are very vulnerable to disturbance and tree-cutting. Cornell University's Laboratory of Ornithology has a Colonial Bird Register, which is an inventory of wading bird breeding colonies, and a North American Nest Record Program. It welcomes information from the public. In addition, the National Audubon Society organizes annual Christmas bird counts and breeding bird surveys whose results are now entered into a computer data bank to aid in preservation programs.

FEDERAL LEGISLATION

THE LACEY ACT

The Feather Trade

At one time, rookeries of egrets and other wading birds numbered in the tens of thousands, scattered in marshes and mangrove swamps, but so many

were shot for their plumes for hats and decorative items that by 1902, tourists in Miami and Palm Beach paid \$10 or more for the scalp of each bird. Egrets display their most elegant plumage during the breeding and nesting season when they are tending their young. Hunters killed the adult birds, leaving the chicks to die in the scorching sun. There may have been fewer than 300 egrets left alive at the turn of the century. The newly founded National Audubon Society employed guards to protect the few remaining colonies, mainly in remote parts of Florida. Egrets were not the only victims—flamingos, herons, ibises, and even songbirds were killed in large numbers for the feather trade. Three of the wardens lost their lives protecting the birds, and if the Lacey Act of 1900 and accompanying state laws had not been enacted, many species of birds would almost certainly have become extinct.

The Lacey Act powerfully enhanced existing laws by prohibiting interstate commerce in wildlife protected by state statute. Fines of \$500 for carrying and transporting "knowingly" (in full knowledge of the law) and \$200 for "knowingly receiving such articles" were levied. The Lacey Act also prohibited sale in one state of animals protected in another. If, for example, egrets protected from killing by Alabama law were shot and their feathers shipped across state lines to New York City, a Lacey Act violation would have been committed. The Act effectively put an end to the commercial plume trade. Eighteen years later, enactment of the Migratory Bird Treaty Act extended federal protection to most native birds. It also prohibits the sale, possession, capture, and shipment of bird feathers, nests and eggs without federal permit, thus strengthening the Lacey Act's provisions.

The sale of most native bird feathers for fashion went out of vogue until the late 1970s when craft articles adorned with bird feathers began to appear in stores. In late 1979, U. S. Fish and Wildlife agents and state wildlife officials from Arizona, New Mexico, and Oklahoma began a major undercover investigation of the illegal killing of native birds for their feathers. In early 1981, raids were carried out against feather dealers, and merchandise worth more than \$500,000 was seized. Thirty-five individuals in Arizona, New Mexico, and Oklahoma were arrested. Among the seizures were tail feathers from over 4,000 Scissor-tailed Flycatchers. Found only in a few southwestern states—Oklahoma, where they are the state bird, Texas, and New Mexico—the flycatchers have tail feathers over one foot long. Because of their habit of perching on roadside fences, they are highly visible, and, therefore, easy targets. The two long tail feathers of these birds are usually used to make decorative fans, reproductions of Indian ceremonial objects. Thirty to 40 birds are used to make each fan. The 4,000 Scissor-tailed Flycatchers killed represented a large percentage of the total population in the country. Illegal killing has not ceased. In 1983, an extensive undercover operation conducted by the U. S. Fish and Wildlife Service on illegal Bald Eagle killings also turned up Scissor-tailed Flycatcher feather objects and those of hawks, songbirds and owls. The Law Enforcement Division of the Fish and Wildlife Service reports that since the 1983 arrests, incidents of illegal feather trading have continued. Many feathers are turned into trinkets that are hung from automobile rear-view mirrors.

A father and son who had illegally killed and stuffed for sale hundreds of birds were sentenced to jail terms in February 1987. In late 1987, further arrests were made of bird poachers—14 people were arrested and charges filed against 50 others who were found to be selling the feathers and stuffed remains of over

600 birds including eagles, owls, and songbirds. Carcasses of Blue Jays, woodpeckers and flickers brought \$10 each to the traffickers.

Fines of \$2,000 per offense and up to two years' imprisonment were levied against the dealers charged in these raids. In the cases involving Bald Eagle feathers, several laws were invoked: the Bald Eagle Protection Act, the Endangered Species Act, and the Lacey Act.

These killings represent a dismaying return to the old slaughters of the past. The Fish and Wildlife Service estimates that tens of thousands of birds are killed illegally each year for the feather trade.

Restaurant Trade

Other birds are shot for sale to gourmet restaurants. Market hunters kill protected birds in one state and carry them across state lines for sale in another state. There is a growing gourmet market for pheasant, quail, and other game birds, so it can be expected that Lacey Act violations will continue unless captive rearing is substituted. Consumers should verify the source of the birds before accepting them.

Maximum penalties under the Lacey Act were increased in 1981 to \$20,000 and/or five years' imprisonment for felonies, and \$10,000 and/or one year's imprisonment for misdemeanors.

Injurious Wildlife

Part 16 of the Lacey Act concerns the importation of species that may be harmful to human health, agriculture, forestry, or wildlife native to the United States. Species deemed injurious may be listed under these regulations and their importation is illegal except under special permit for zoological, educational, medical, or scientific purposes. The only bird species listed as injurious are the Pink Starling (*Sturnus roseus*), Red-billed Quelea (*Quelea quelea*), Java Sparrow (*Padda oryzivora*), and the Red-whiskered Bulbul (*Pycnonotus jocosus*). These birds are considered threats to both agriculture and native wildlife.

All other starlings should be added to the injurious wildlife list, since all species present equal threats to native birds. The Red-whiskered Bulbul is an Indian species abundant near villages where it is considered a threat to fruit crops. This species is already established in the United States, however, in Florida where it is competing with the native Mockingbird for food. Under a clause written into the injurious wildlife regulations, "domestic parrots" may not be included on the list. This term has never been legally clarified, but has been interpreted by the Fish and Wildlife Service as prohibiting the inclusion of all species of parrots, whether wild or primarily captive-bred such as the Cockatiel (*Nymphicus hollandicus*) and the Budgerigar (*Melopsittacus undulatus*). Many of the parrots imported for the cage bird trade by the hundreds of thousands have escaped or been turned out in various parts of the country. At least fifteen species are established as breeding birds, with the Budgerigar in Florida having a population of over 10,000 birds. This exclusion of parrots from the injurious wildlife list should be deleted so that parrot species considered to be major

threats to agriculture or native wildlife, such as the Monk Parakeet, for example, could be added to this list.

In practice, the Red-billed Quelea has been illegally imported and sold in U. S. pet stores, but so far has not become an established species in this country.

The Fish and Wildlife Service attempted to close the door to most wild exotic birds in 1973 by proposing that all but a few species of non-psittacine birds be prohibited entry and added to the injurious wildlife list. The pet industry, however, in a concerted attack on the regulations and through outrageous tactics, such as accusing the Service of banning all pets including puppies and kittens, succeeded in killing the proposal. A somewhat shorter list was proposed by the Service in 1977, but it, too, was defeated by pet industry lobbying.

In 1984, Georgia enacted a law allowing officials to keep out birds not native to the state, which, if set free, could be capable of breeding in the wild and causing damage.

Humane Transportation Regulations

In 1981, the Lacey Act was amended, and Congress designated the Fish and Wildlife Service to formulate and enforce regulations mandating Humane and Healthful Transport of Wild Mammals and Birds into the United States. The numbers of birds arriving dead at ports of entry are staggering: between 1980 and 1986, 259,733 birds. In some cases, entire shipments of birds have been so poorly crated, fed, and watered, that most of the birds are dead on arrival. The West African country of Senegal, the world's largest bird exporter, is also one that exports a large number of shipments of finches and small parrots that arrive in very poor condition. One shipment of 24,000 finches, for example, arrived at its destination in Chicago in March 1982, half a world away, with 12,304 birds dead; another 38,000 finches arrived within days from Senegal and Mali, and of the total 62,000 birds, only 18,900 were still alive after the 30-day quarantine period, a 70% mortality. In late 1986, a research team from the British organization, the Environmental Investigation Agency, visited capture and shipping areas in Senegal. They documented a mortality of 50%, or 10 million birds of the 20 million captured, even prior to export. Most die on capture, or soon thereafter, from shock, stress, injury, and mistreatment, and others die on the long trips to exporters' compounds in crowded, flimsy cages stacked on the roofs of buses.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), to which the United States is party, requires that "any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment." The finches shipped from Senegal and other African countries are not listed on the CITES Appendices; parrots are, however, the entire family of parrots, Psittacidae, having been added to Appendix II in 1981; this category denotes species that are threatened or may become so if traded in an unregulated manner. Senegal Parrots (*Poicephalus senegalus*) (Appendix II species) are shipped along with many finches, such as the shipment above, and die in large numbers. Between 1980 and 1985, 43,179 Senegal Parrots were imported by the U. S., and 1,743 arrived dead; an additional 8,374 died while in U. S. quarantine stations being screened for Newcastle Disease, a major threat to the poultry industry. No enforcement of this CITES requirement

for humane shipment has taken place, either by the exporting country, to whom responsibility belongs for ascertaining that shipments leave the country properly crated and cared for, or by the importing country in refusing entry to the shipments.

Many countries are not abiding by the CITES shipment requirements and other important parts of the Convention; for example, Appendix II listing requires population studies on listed species to ascertain that trade is not resulting in a decline in wild populations. Few exporting countries have done such population studies. From a legal point of view, it is not clear at present how one country may discipline another's lack of compliance. When a country is defying CITES by issuing false permits, permits obtained under false circumstances such as by bribery, as both Bolivia and El Salvador have done in the past few years, the CITES Secretariat issues a Notification to the Parties either to refuse all shipments from that country or to refuse shipments bearing certain export permits. This is not done, however, in cases when a country consistently issues permits to shipments that arrive in very poor condition, with many dying animals.

Access by humane and conservation organizations to oversee the arrival of these shipments at ports of entry is severely limited by the Department of Agriculture's regulations requiring observers to remain at a distance from crates because of potential disease problems that could arise from close contact with unquarantined birds. Newcastle Disease can be spread by people, even though humans are not susceptible to the disease. Inspection of quarantine stations, most of which are privately run under USDA supervision, is likewise difficult because a station owner may refuse entry to non-government individuals. An agreement is being worked out with the Fish and Wildlife Service, however, that would permit inspection under controlled conditions by representatives of humane and conservation organizations. This is extremely important from the point of view of checking mortality from shipping conditions, as well as to inspect for species that are listed on the CITES Appendices or under the U. S. Endangered Species Act. The Fish and Wildlife Service is able to inspect only about 20% of wildlife imports. Moreover, many imported species are protected from trade in their native countries, and U. S. importation violates the Lacey Act. It should be remembered, though, that even with greater supervision and stricter regulations on shipment and quarantine, millions of birds will still die in their native countries as a result of stress and mistreatment in the capture and pre-export processes.

The International Air Transport Association (IATA) issues recommendations on Live Animal Regulations (LAR) for shipment, with specific advice on crating and feeding various types of animals. The CITES members have approved resolutions recommending that all Parties abide by the IATA regulations prior to issuing export permits, but compliance is very poor.

Final regulations under the 1981 Lacey Act amendments were published in late 1987. The regulations were scheduled to go into effect February 8, 1988, but heavy lobbying by the pet industry and several airlines succeeded in persuading the Fish and Wildlife Service to announce in the *Federal Register*, February 10, that the effective date would be delayed for six more months. The Animal Welfare Institute and 10 other animal protective groups filed suit in U. S. District Court on March first requesting an injunction to direct the Secretary of the

Interior to reinstate the Final Rule on Humane and Healthful Transport of Wild Mammals and Birds to the United States. Ray Bolze of the law firm of Howrey and Simon argued the case *pro bono*. On April 18, Judge John H. Pratt issued the following Order:

Upon consideration of the plaintiff's Motion for Preliminary Injunctive Relief, defendants' and intervenors' opposition thereto, the hearing held on April 15, 1988, and the entire record herein, and in accordance with the Findings of Fact and Conclusions of Law entered orally on the record pursuant to Rule 52 of the Federal Rules of Civil Procedure, it is by the court this 18th day of April, 1988

ORDERED that plaintiffs' motion is granted; and it is

ORDERED that defendants shall reinstate the November 10, 1987 Final Rule on Humane and Healthful Transport of Wild Mammals and Birds to the United States, and deem it effective as of February 8, 1988; and it is

ORDERED that the defendants shall be enjoined from further postponing the effective date of the aforementioned rule without complying with the notice and comment requirements of the Administrative Procedure Act; and it is

FURTHER ORDERED that notice of this court's decision shall be published in the *Federal Register*.

On August 10, 1988, the Service published suggested modification of the regulations for comment. They are now in final form but are being held up by the Office of Management and Budget.

THE ENDANGERED SPECIES ACT

Legislation mandating a list of rare and endangered species was first enacted by Congress in 1966. This Act was amended in 1969 when foreign species were added to the list. In 1973, a comprehensive model Act came into being, which provides the most extensive safeguards of any legislation to protect declining species.

Stiff penalties under the Endangered Species Act have deterred crimes against endangered species, and the Act includes sections that aid in assessing status and securing habitats. For many native species, the provisions of the Endangered Species Act have helped them to restore their numbers. Prior to passage of the Act, the Whooping Crane, reduced to near extinction by hunting in the 19th and early 20th centuries, continued to be shot on its migration between Wood Buffalo National Park in Alberta, Canada, and Aransas National Wildlife Refuge in south Texas where it winters. With increased supervision on its migration and high penalties for illegal shooting, numbers are increasing, but the wild cranes still number only about 150 birds.

The Act prohibits harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, collecting, or attempting to engage in such activities against species listed in either of the two categories: endangered or threatened. The Fish and Wildlife Service issues permits only for activities that will not harm the survival of listed species. Changes in 1988 increased penalties

for violations of the Act to \$50,000 and/or one year's imprisonment for felonies involving endangered species, and \$25,000 and/or six months' imprisonment for crimes involving threatened species; misdemeanors are now punishable by fines of \$25,000 for crimes involving endangered species and \$12,000 for crimes involving threatened species. A maximum of \$1,000 can be assessed for unintentional violations. Rewards of up to \$2,500 for information leading to convictions are given.

Section 7 of the Endangered Species Act provides that federal agencies may not engage in activities that threaten the survival of a species. The U. S. District Court of Minnesota recently ruled that consultation by federal agencies with the Secretary of the Interior must occur not only in the United States but in a foreign land if the action of a U. S. agency affects an endangered or threatened species.

A case in which Section 7 proved crucial is the well-known Supreme Court decision on the Mississippi Sandhill Crane. This highly endangered race of the Sandhill Crane, numbering less than 50 birds, constitutes the remnant of a population that was once much larger. A federal highway, slated to be constructed through the middle of their 2,500-acre refuge, was opposed by the Department of the Interior, but the Department of Transportation refused to redesign the highway to skirt the refuge. A lawsuit against the Department of Transportation by a conservation organization resulted in a 1976 Supreme Court decision in favor of the cranes. Highway I-10 was rerouted to go around the refuge of these cranes.

Most federal projects, however, have been permitted even though they destroyed habitats of endangered species. If a project will not result in the actual extinction of a species, but only the loss of some individuals, it is often allowed to continue. Also, the Act does not prohibit destruction of habitats on state, local, or privately owned land. The endangered Red-cockaded woodpecker, for example, requires diseased pine trees for nesting, and these are being cut by lumber companies on their own land. Some state laws, such as Michigan's, prevent such activity on habitats of state-listed species.

In 1978, amendments to the Endangered Species Act mandated that a species' critical habitat, or that deemed critical to its survival, be delineated when a species was proposed to be added to the list as endangered or threatened. In other words, the breeding, wintering areas, and other habitats required for survival of the species must be described in minute detail and submitted for public comment along with the proposal. This has meant that only species occupying very restricted ranges have been listed since the amendments came into effect. Widely dispersed species or those having unknown breeding or wintering areas may not be listed under these amendments. The southern Bald Eagle, for example, could not qualify if proposed for listing after 1978 because each nesting and wintering area, as well as migration paths, could not be delineated in detail for this wide-ranging species. Likewise, Bachman's Warbler, a species on the brink of extinction, could not receive protection under the Act because its breeding areas remain unknown.

Under the Act, listed species native to the United States are assessed in terms of their recovery from endangered status. Recovery plans are formulated by the Fish and Wildlife Service and set into action. These may include the purchase of habitat, captive-breeding, further research on status and habitat

requirement needs, and other aspects critical to the species' survival. In many cases, cooperative agreements with state wildlife agencies or other federal agencies are worked out as well as with private conservation organizations or landowners. Through these means, the populations of some critically endangered species have slowly increased. The Brown Pelican, Whooping Crane, Kirtland's Warbler, Bald Eagle, Peregrine Falcon, and other bird species are far less endangered now than when the Act was first passed. Listing does not, however, guarantee either recovery or survival. Several species have faded into oblivion despite listing. The Dusky Seaside Sparrow, for example, is a race, or subspecies, of the widespread Seaside Sparrow; it has received protection under the Act and yet its population has declined inexorably to extinction. The last bird died on June 16, 1987. This species inhabited salt marsh in Florida adjoining the NASA space launching site in Cape Canaveral. Its habitat was protected as a National Wildlife Refuge, but continued pesticide spraying by NASA of the marsh and its degradation by filling, gradually reduced this bird from a population of over 1,000 in the late 1960s to extinction in the wild. The last Dusky Seaside Sparrow was in captivity in a breeding program to hybridize it with another closely related subspecies of the Seaside Sparrow in order to retain its genes, even if in altered form.

The California Condor is another tragic example of a species whose decline has been carefully monitored, but not reversed. This magnificent bird of prey, the largest bird in North America, with a wing span of over nine feet, once soared over most of the West. In Pleistocene times, it even ranged as far east as Florida. By the 1960s, the combined effects of illegal shooting, loss of habitat, accidental poisoning by predator control poisons, and lead shot reduced its numbers to about 30 birds in southern California. Only a small portion of its range was protected by a Forest Service-controlled refuge, and access by deer hunters continued; carcasses of deer killed by lead shot and fed on by Condors are believed to be responsible for the loss and disappearance of many birds in the late 1970s and early 1980s. Still, little was done until the population numbered less than 10 birds. After heated debates that continue today, the Fish and Wildlife Service decided to capture all the remaining Condors for captive breeding. Plans call for release to the wild of some young Condors hatched in captivity from eggs taken from wild nests, but such releases may be many years away. The last California Condor in the wild was captured on April 19, 1987.

An inconspicuous bird of western old-growth forests, the northern Spotted Owl, upset Forest Service plans to cut thousands of acres in the northwest, and also presented a major challenge to the listing process of the Fish and Wildlife Service for the Endangered Species Act. In November 1988, a federal district judge ruled that the Fish and Wildlife Service had acted illegally in failing to list the Spotted Owl as an endangered species. Conservationists had filed petitions requesting this listing, and the Service formally rejected the proposal in 1987. In February 1989, the General Accounting Office issued a report highly critical of this action by the Fish and Wildlife Service, concluding that the Service deleted crucial biological data from its assessment of the species, and based its rejection of the petition on economic, not biological, criteria, a violation of the Act's regulations. The Service was responding to protests by the Forest Service and private logging companies that such listing would result in the removal of thousands of acres of old-growth forest from potential cutting, since this species cannot survive in any other habitat. Census figures show the Spotted Owl declined

an average of 12.4 percent annually over the past nine years, according to Gregory Butcher, Director of Bird Population Studies at Cornell University.

The Spotted Owl has been aided by lawsuits filed against the Bureau of Land Management and the Forest Service to halt cutting of old-growth forests to protect the species. In late 1988, several such lawsuits were won by conservationists, and the Forest Service will have to set aside at least 1.6 million acres for this species' habitat protection. Unfortunately, two-thirds of old-growth forests in the states of Washington, Oregon, and northern California have already been cut. Conserving habitat for the endangered owl will go far to protect other species of these ancient forests as well. In April 1989, the Fish and Wildlife Service proposed the northern Spotted Owl for threatened species listing. Hearings were held in August in Oregon, California, and Washington State, and in September, the service extended the comment period to December 20, 1989.

In April 1990, government scientists from all of the agencies involved recommended a ban on logging in 30-40% of publicly owned old-growth timberlands in the Pacific Northwest in order to save the owl, and in June the Fish and Wildlife Service listed the owl as a threatened species under the Endangered Species Act.

Foreign species of birds are also listed under the Act, and illegal trade in these birds has been reduced as a result. Some birds prized by falconers and aviculturists may fetch prices up to \$100,000 on the black market, thus vigorous law enforcement is necessary.

THE MIGRATORY BIRD TREATY ACT

Signed in 1918, the Migratory Bird Treaty Act between Great Britain on behalf of Canada and the United States prohibited the killing of nongame migratory birds. In the intervening years, this Act has been expanded to include agreements with Mexico (1936), Japan (1972), and the Soviet Union (1976). Sea birds and birds of prey were added to the Migratory Bird Treaty Act in 1972 in a signed agreement with Mexico. All these treaties are implemented under the Act. Except for those birds hunted during seasons established by the Secretary of the Interior in the United States, all other migratory birds are protected by law from killing, capture, possession, and sale. The Fish and Wildlife Service has interpreted the Act strictly and has not given permits that violate these provisions.

Some 65 species of birds can be legally hunted in the United States under regulations promulgated annually by the Interior Department. These birds include most species of ducks, geese, swans, wild pigeons, doves, Sandhill Cranes, American Woodcock, grouse, crows, Wild Turkey, quail, and several introduced game birds such as Ring-necked Pheasant.

For the majority of the estimated 800 species of birds breeding in the United States, the Treaty has allowed recovery from the disastrous free-for-all market hunting of the 19th and early 20th centuries that caused the extinctions of the Labrador Duck, Great Auk, Passenger Pigeon and Heath Hen, as well as the near extinction of the Eskimo Curlew and many other birds. At the turn of the century, it was not uncommon to see huge piles of dead songbirds for sale in

open marketplaces. Now it is illegal to sell native migratory birds, except for certain species of waterfowl that may be propagated under permit.

Binding treaties with Latin American and Caribbean nations should be negotiated to assure protection of North American migrants. Many of these countries have set aside large national parks and reserves and passed strict laws banning hunting and trade in wildlife. Effective enforcement, however, is not always possible because of poor funding and the enormous territory to be covered. Forests in Latin America are being destroyed at a catastrophic rate, causing declines in many of "our" native birds that winter there. North American countries should aid in the conservation of migratory birds wintering in Latin America by providing funds for more reserves and personnel to police existing ones. Some private organizations such as The Nature Conservancy and the World Wildlife Fund have contributed to such projects, but government funding would be a major aid to preserve the wintering grounds of birds that spend up to eight months of the year in Latin America.

The continued importation by Latin American countries of DDT and other pesticides whose application is banned in the United States is highly detrimental to North American migratory birds as well as native birds in those countries. The manufacture and export of pesticides that may not be legally used or may be used only under strict control in the United States should be prohibited through legislation or regulation.

Illegal Killing of Protected Birds

In many parts of the country, shooting at birds of prey has long been considered a form of recreation. Under federal law, birds of prey were not added to the Migratory Bird Treaty Act until 1972, and many states did not remove bounties or accord protection until very recently. Prejudices against hawks, eagles, and owls have persisted among many who believe, wrongly, that these birds harm wildlife or present major threats to domestic animals. Hundreds of these raptors are shot each year, even today, in spite of many biological studies showing their importance in ecological systems as predators on rodents and hares.

On February 27, 1989, Ralph J. Jackson was sentenced to 12 years in prison on 10 counts of selling bald eagles and one count of intimidating a federal witness. He is the largest individual marketer of illegally taken wildlife ever apprehended in Washington State. In the Olympic Peninsula, where eagle numbers are dangerously low, "Mr. Jackson if left alone would probably wipe them out," according to the federal prosecutor.

The Wildlife Information Center of Allentown, Pennsylvania, recently revealed the use of pole traps by the Pennsylvania Game Commission to capture birds of prey at state game farms. This organization has documented serious injuries and death to raptors caught in pole traps, which are leghold traps placed on top of tall poles. It has taken legal action to stop this practice. The Center formally petitioned the Fish and Wildlife Service to request regulations prohibiting all uses of pole traps. The petition has been accepted, and restrictive guidelines have been formulated. States and others must apply for permits to use pole traps at present. These cruel traps, which suspend birds caught by the

leg, are prohibited by law in many states. Their use against birds of prey, which present supposed risks to game birds or fish in hatcheries, is archaic and violates the spirit and letter of the Migratory Bird Treaty Act. Methods of protecting game animals from predators include screening and roofed enclosures.

Fines of a maximum of \$500 and/or six months' imprisonment can be levied under the Migratory Bird Treaty Act for misdemeanors involving the killing of protected birds. For felonies (intentional and/or premeditated crimes), fines of up to \$2,000 and two years' imprisonment may result. Crimes under the Migratory Bird Treaty Act are not confined to shooting but also include capture, sale, and indirect killing, as by pesticide poisoning. At one time, egg collectors made major inroads on the populations of birds by collecting their eggs. Now nests and eggs of birds are protected by law throughout the year from destruction. Nests of many species of birds of prey are used year after year and added to by the mated pair. It is thus extremely important that nests not be disturbed or the nesting trees be cut down, although the latter is not prohibited under the Treaty Act.

Hunting

Hunters take a high toll of protected birds through accidental and, sometimes, intentional killing. The regulations issued by the Fish and Wildlife Service under the Migratory Bird Treaty Act set seasons, species that can be hunted, bag limits per region, hunting hours, and restriction of lead shot.

One particularly controversial regulation involves the hours set for hunting: shooting beginning one-half hour before sunrise. At this time of day, it is not possible to distinguish clearly between different species of birds. In 1988 for the first time, regulations were changed eliminating this practice, ostensibly to protect declining waterfowl populations. It remains to be seen whether this regulation will be permanently changed.

A major shortcoming in the regulations is the lack of a test to ascertain whether hunters are able to identify protected species and distinguish the various game species. The Fish and Wildlife Service is well aware of the inability of many individuals who purchase hunting licenses to identify birds in the field, but it has neither established any test for hunters, nor has it encouraged the states to do so. The accidental shooting of protected birds is rarely punished by the maximum fine.

The importance of distinguishing between hunted birds is illustrated by the case of the Black Duck, a bird native to eastern North America, which is one of the most heavily hunted of all waterfowl. The Black Duck has undergone a 60% population decline since 1955. In Maine, where many Black Ducks breed, the decline has been 75%.

The Black Duck bears a strong resemblance to the female American Mallard, a far more common species, and hunters often confuse the two. Following years of protests, studies verifying its decline, and a lawsuit, the Fish and Wildlife Service finally reduced bag limits and shortened seasons on Black Ducks in 1983-84. The Service has also distributed posters showing the differences between the two species, but has stopped short of according total protection to this species. In the 1986-87 season, the daily bag limit in the Atlantic Flyway was

one Black Duck. In 1986, a study revealed that this species may be a victim of acid rain as well as overhunting.

An even more flagrant example of hunters misidentifying birds is that of the Cackling Goose, smallest race of the Canada Goose. Twenty years ago, the population of this goose totalled 380,000 birds. Today there are fewer than 21,000—a 94% decline. The Service finally prohibited hunting in 1983, but 1,000 birds were accidentally shot in the 1984-85 season.

The Migratory Bird Treaty Act specifically prohibits the use of bait such as corn to lure birds into areas where hunters are waiting. Violations, however, are commonplace. In November 1983, for example, an Alabama Congressman, a Virginia Game Commissioner, and 22 other persons were indicted for hunting doves in a baited field in Virginia. The group's members were all charged under the Act with a misdemeanor. Most violations under the Act have involved shooting over the limit of a given species or shooting protected birds. In 1977, federal and state agents found 614 doves in the back of one pickup truck. The same year in Louisiana, nearly 150 duck hunters were arrested for violations; one hunting party had 108 ducks, consisting mainly of protected species.

A sting operation by the Fish and Wildlife Service in 1988 exposed massive illegal hunting of waterfowl. Infiltrating duck hunting clubs by masquerading as hunters, the Service uncovered violations in 41 of 42 clubs. The three-year investigation resulted in the arrests of 210 duck hunters. Violations included the slaughter of hundreds of birds over legal limits, spooking flocks to drive them toward hunters, illegal use of lead shot, failure to retrieve wounded birds, birds taken out of season and falsifying records.

Lead shot is another serious problem regulated by the Act. Lead rather than steel shot is the preferred ammunition of bird hunters. Unfortunately, spent lead shot remains on marsh and river bottoms from missed shots at waterfowl. Ducks and other birds who eat gritty substances, such as sand to aid in digestion, consume lead shot along with the sand. Small amounts of the shot are released into the bloodstream when the pellets are pulverized in their gizzards. A single #6 lead shot pellet can kill a duck. Most ducks and other waterfowl are killed gradually by lead accumulations. Once a lethal amount of lead is ingested, a duck becomes progressively weakened and emaciated and may take a month or more to die.

Wildlife managers have been aware of the lead shot problem since the 1940s. A 1959 study substantiated high losses of waterfowl each year. The Department of the Interior, however, waited until 1976, two years after its own scientific studies on lead shot were completed, to institute a program in which steel shot was mandated. The first year, steel shot was required in small areas of nine states, and in the same year, the National Rifle Association filed a lawsuit against the Department, claiming that steel shot damaged gun barrels and that the Department had not prepared an adequate environmental impact statement. The suit was won by the Department, and steel shot continued to be mandated in ever larger areas. By 1978, the use of steel shot was proposed in 38 states. Unfortunately, Senator Ted Stevens (R, AK) successfully blocked the proposal by pushing through legislation allowing states that did not agree with the steel shot regulations to overrule them.

One state's withdrawal from a steel shot program had dire consequences:

In the weeks after the ban on lead shot was lifted in Wisconsin in 1981, 3,000 Canada Geese died of lead poisoning in a three-week period, with an additional 2,000 after that—all in a single waterfowl hunting marsh. Dredges picked up 118,000 lead pellets per acre in this marsh after their deaths. This highly publicized event caused many hunters to change their minds about steel shot.

In 1986, the lead shot issue was finally solved. A long-standing lawsuit brought by the National Wildlife Federation against the Department of the Interior that demanded an end to the use of lead shot was decided by a federal judge who ruled that all use of lead shot must end by 1991. Regulations requiring steel shot in all but six states were mandated in the 1986-87 waterfowl hunting season by the Fish and Wildlife Service, but now an end is in sight for this highly toxic ammunition. By the 1992-93 hunting season, lead shot will be banned throughout the nation. Shells loaded with nontoxic steel shot have been available for several years in 10-, 12-, and 20-gauge sizes, but not for 16-gauge. As of July 1987, shells are available for 16-gauge as well.

The importance of this ruling for populations of wild birds cannot be overemphasized. The total number of game and nongame birds killed as a result of the use of lead shot probably exceeds five million per year. Geese and ducks are not the only birds that fall victim. Whooping Cranes, wintering in New Mexico and Texas, eat sand along with their mollusk diet. In January 1984, one of these endangered birds died of lead poisoning. An autopsy showed 200 lead pellets in the gizzard of the dead bird. Another endangered species, the Bald Eagle, is also an indirect victim of lead shot. A female Bald Eagle in Texas was treated for lead poisoning early in 1984, and she, too, died. This bird had probably consumed numerous crippled ducks downed with lead shot and, over a period of months, accumulated a lethal dose. In 1983 alone, 13 Bald Eagles are known to have died of lead poisoning, and the Fish and Wildlife Service has documented more than 100 Bald Eagle deaths from lead poisoning since 1976.

In early 1989, a large number of Minnesota's introduced Trumpeter Swans died of lead poisoning. Wildlife experts found over 20 dead and dying swans and express pessimism for the survival of the remaining birds.

Tests by the Department of the Interior have shown no appreciable difference in crippling of ducks between steel and lead shot, disproving the contention of many opponents of steel shot that the latter cripples more birds. Both types of shot cripple four to five birds for every 20 shot and killed.

Although the lead shot question regarding waterfowl hunting has been solved, the use of lead shot for other forms of hunting, i.e., deer, rabbit, and small game hunting, continues to kill animals that feed on carcasses, such as the California Condors mentioned above. The situation is basically unstudied and needs the attention of biologists and concerned citizens.

The effect of hunting on wild populations of rails, doves, and Sandhill Cranes should be examined more carefully. Bag limits tend to be high, even on declining species, and independent studies on all hunted species need to be carried out. A 1987 population survey of the continent's ducks revealed that the 10 most common species, which numbered 42.7 million in 1955, had declined to 30.3 million. American mallards have declined 35%, Northern Pintails 66%, and Blue-winged Teals 44%. A long-range program to acquire and recreate hab-

it, especially in Canada's Saskatchewan, was signed by U. S. Interior Secretary Hodel and Canada's Environment Minister in 1986.

Destruction of Depredating and "Nuisance" Birds

In 1667, the Massachusetts Bay Colony passed laws requiring citizens to reduce blackbird numbers. One law even went so far as to forbid men from marrying until they had killed a quota of six birds. The age-old problem of birds eating crops has undergone great changes in American law during the past 300 years.

In general, destruction of native birds is prohibited by the Migratory Bird Treaty Act of 1918. However, exceptions are allowed by permit in cases where birds cause crop depredations, nuisance or disease threat from large roosts.

Section 21.43 of Title 50, the Migratory Bird Treaty Act, permits destruction by landowners or municipalities of birds of the crow and blackbird families. No special permit is needed; only the opinion that these birds are causing damage. Section 21.41 allows the killing of certain other depredating birds under permit.

Under these exceptions, towns or individuals can "declare war" on crows and blackbirds. This is not uncommon, in fact, and thousands of these birds are killed each year, some by very inhumane means. These regulations should be changed to require proof that the birds are causing damage, and the use of non-lethal means to scare birds off should be required before the birds could be killed.

Some highly dangerous poisons have been used in bird control programs. In 1976, methyl parathion, an extremely toxic pesticide, was sprayed to kill blackbirds in Tennessee. The Audubon Council of Tennessee reported that only a few dozen blackbirds were killed by the spraying, but that Northern Cardinals, Song Sparrows, Mockingbirds, Screech Owls, Red-tailed Hawks, and Northern Harriers were found dead the following day near the spraying site.

A large kill of songbirds occurred in 1979 in upstate New York. Ten thousand birds were discovered in March on a 3,000-acre farm near Newburgh. They were found hanging from trees and strewn on bushes and hedges. The birds were in the midst of spring migration. It was discovered that the birds were deliberately poisoned by a farmer using parathion. He was fined only \$1,250 under the Migratory Bird Treaty Act—a small percentage of the actual fine he could have been assessed had each bird been considered a separate offense.

Ignored by many farmers is the value of many birds in controlling insects. Blackbirds kill weevils, earworms, and rootworm beetles, all serious crop pests, and have been known to eliminate hornworms on tobacco plants. It has been estimated that 10 million blackbirds would consume 110,000 tons of insects and weed seeds in a year.

Accidental Poisoning of Birds and Oil Spills

Pesticides and other toxic chemical contaminations' effects on birds have become a major cause of avian mortality in the past 40 years. While control over

manufacture and use of toxic chemicals lies with the Environmental Protection Agency (EPA), under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Fish and Wildlife Service has responsibility to prevent and/or punish misuse of these chemicals against wildlife.

Instances in which birds are killed by toxic chemicals are enforced under the Migratory Bird Treaty Act's provisions against killing. If the species are endangered and listed under the Endangered Species Act, further penalties may result.

Research carried out by the Fish and Wildlife Service's Patuxent Wildlife Research Center for decades has established the extreme danger to birds of many pesticides, herbicides, and other toxic chemicals. Results of this research have contributed to the banning of many pesticides such as DDT, DDD, dieldrin, toxaphene, heptachlor, and diazinon. Unfortunately, endrin, the most toxic of the chlorinated hydrocarbon family of pesticides, is still legal for some uses. Endrin was responsible for the elimination of the Brown Pelican in Louisiana—a population of 50,000 birds. Since that and other bird kills of the 1960s, controls on use have become much stricter, but the chemical has not been banned altogether.

Strychnine, Compound 1080, and cyanide, chemicals used to kill predators and rodents, have also killed many birds. In the fall of 1983, a California Condor, found dead, was determined to have a lethal dose of cyanide in its body; apparently, it ingested the poison from an M-44 cartridge that had been set out for coyotes.

Several endangered Peregrine Falcons have been killed after eating pigeons poisoned by strychnine.

Strychnine, Compound 1080, and sodium cyanide are banned for use in predator control excepting collars for sheep that contain Compound 1080 and M-44 cartridges (see Trapping and Poisoning chapter for further details). Unfortunately, the continued use of these chemicals to control rodents is also killing birds. In many cases, birds feeding on the carcasses of rodents killed by poisons are themselves killed. In other cases, poisoned grain set out for rodents is fed on by birds. Strychnine is the most toxic to birds of the three poisons mentioned above, lethal even in very small doses to most bird species. In October 1988, the EPA placed a temporary ban on the sale of strychnine and cancelled all above-ground permits for use against rodents.

Other chemicals implicated in the deaths of birds or in causing birth defects, cancer, and genetic mutations are PCBs (polychlorinated biphenyls) and dioxin. PCBs cause genetic mutations such as crossed beaks, double heads, or missing legs. The use and manufacture of PCBs are prohibited, but they remain in the environment from past use in electrical conductors, refrigerator coolants, and airborne transmission from other parts of the world where they are still legal. Dioxin, a contaminant in herbicides and other chemicals, is highly toxic to all forms of life, and in spite of concerted attempts to control its introduction into the environment, still contaminates water and soil in many parts of the country.

A report completed by the Center for Environmental Education in 1986 concluded that the EPA has not taken sufficient action to prevent the accidental

poisoning of species listed by the Endangered Species Act. In case after case, warnings from the Office of Endangered Species that dangerous chemicals could kill endangered species have been ignored, and the EPA has registered the chemicals.

Convictions for the deaths of birds resulting from accidental poisonings are difficult to obtain because of several factors. First, unless the species is endangered or a large number of birds are found dead at one place, necropsies are rarely carried out. Secondly, assigning responsibility for the poisonings is often difficult, especially when the chemicals have been dispersed over wide areas. In one recent case, however, the Fish and Wildlife Service took strong action to prevent the poisoning and birth defects that were threatening to eliminate birds from a National Wildlife Refuge in California. Selenium, a naturally occurring element in soil, had been flushed into the intake canal of the Kesterton National Wildlife Refuge near Sacramento, California. Agricultural irrigation in the area caused the selenium to leech out of the soil. Bird kills numbering in the thousands and large numbers of deformed bird chicks in the Refuge resulted in the Service's decision to close the canal draining the nearby farm irrigation canals, citing potential criminal violations of the Migratory Bird Treaty Act. The affected farmers protested loudly, bringing nationwide media attention to the situation. By mid-1985, several months after the canal closing, negotiations resulted in a gradual shut-off of the canal.

Oil spills constitute another major threat to birds. In the late 1960s and early 1970s, several major oil spills occurred, causing major bird kills. It was later learned that detergents used to disperse the oil often proved toxic to birds either from direct ingestion or by destroying the natural oils in their feathers, thus causing death through chilling and stress-related trauma. Non-toxic chemicals, new methods of treating oiled birds and other means of controlling spills can now be used, thus increasing the number of birds surviving treatment from about 5% to between 60% and 80%.

For birds involved in oil spills, rescue is organized under the National Oil and Hazardous Substances Contingency Plan. The Department of the Interior is directed to form a Regional Response Team to arrange coordination for recovery and rehabilitation of oiled birds. Costs are covered by a fund in the Clean Water Act derived from a tax on the oil industry.

Alaskan Oil Spill - 1989

Prince William Sound on Alaska's southern coast, one of the world's major breeding areas for sea birds, was the scene of the largest oil spill in U. S. history on March 24, 1989. The *Exxon Valdez*, an oil tanker heading south from Valdez where it had been fully loaded with crude oil from the Alaskan Oil Pipeline, foundered on a reef just miles from the port. The tanker was off-course from its prescribed sea route, and an unqualified crew member was at the helm. Over 11 million gallons of crude oil spilled into the pristine waters of the Sound as the ship's hold was ripped by the reef.

Some 219 species of birds have been recorded in the Prince William Sound region, and of these, 72 species number over 10,000 birds, and 10 species number in the millions. In addition, the Sound is on the Pacific Flyway migration

route, and the spill occurred only two weeks before spring migration, when over 20 million migratory shorebirds and waterfowl pass through the region.

Within days of the spill, and in spite of calm weather in the days following it, the Exxon Corporation, whose responsibility it was to clean up the spill, was unwilling or unable to take quick and effective action to prevent the oil from spreading throughout the hundreds of inlets and coves of the Sound and into the open ocean. The heavy crude oil sank to 90' depths and by April 10 had spread over an area covering 3,000 square miles. Surface oil was up to 18" thick, covering sea birds that landed in it with a lethal coating. It is believed that thousands of birds died and sank in open water.

By May 10, 11,702 birds were found dead or oiled.⁴ Species most affected were Common and Yellow-billed Loons, Horned Grebes, Pacific Cormorants, Black- and White-winged Scoters, Common Murres, Pigeon Guillemots, and the threatened Marbled Murrelet. Oiled birds were brought to rescue centers run by the International Bird Rescue Center, based in California. Because of the extreme toxicity of the oil, which contained toluene, benzene, and other lethal chemicals poisonous to wildlife, survival rates of oiled birds were low. Four centers were set up throughout the Sound as the numbers of birds increased. The vast area of oiled waters meant that only a fraction of oiled birds were found. By late September 1989, 34,000 sea birds had died. True numbers may never be known, however. Workers piled dead animals of all types on the beach—20 *tons* of animals had been collected by early May alone, and many piles were burned under orders from Exxon personnel, rather than placing the bodies in cold storage as the Fish and Wildlife Service had ordered. Thus, thousands of birds were never counted into the totals of the heavy toll of wildlife caused by the spill. Fish and Wildlife Service biologists estimate total mortality of sea birds killed at between 250,000 and 400,000.⁵ Effects on populations of birds will take years to assess, but it is known that the entire population of Common Murres in the Barren Islands of the Sound, estimated at 91,000, has been eliminated.^{6,7} Ornithologists fear that populations of Yellow-billed Loons may also have been significantly affected.⁸

Our national symbol, the Bald Eagle, was hard hit by the oil spill. Many Bald Eagles fed on carcasses of oiled birds and died from secondary poisoning. Prince William Sound is a major breeding area for Bald Eagles, with a population of over 3,000 birds. The eagles were just laying eggs as the spill occurred. Of 360 nests active prior to the spill, 70% were found to be deserted within weeks, after a survey by Robert Mesta, a Fish and Wildlife biologist.⁹ Many of the nests held dead, oiled sea birds and eagle eggs killed by penetration of the oil. Many eagles, having ingested oil, broke wings, plummeting to the ground in vain attempts to fly.¹⁰

By late September, 148 Bald Eagles were known dead, and Dr. James Scott, a veterinarian in charge of caring for the eagles treated in a special rescue center, believes that as many as half of the Sound's eagles—1,500 birds—may have died.¹¹ Funding for the Bald Eagle rescue center was limited to \$100,000, compared to \$8 million spent on sea otter rescue, and by September, funds were depleted, with many Bald Eagles injured and needing treatment.¹² Data on eagles found dead, injured, and oiled by Exxon employees has been withheld from independent and government researchers for use in defense of the corporation in pending lawsuits, to the chagrin of scientists and veterinarians who

need the data immediately to aid in rescue and rehabilitation work.¹³ Communications broke down between non-Exxon researchers and Exxon employees during the summer, with each group attempting to lock the other out of rooms containing physical evidence.¹⁴ Because of these complications, the true history of the effects of the spill on this and other species may never be known.

Over 200 lawsuits have been filed over the spill, the majority damage suits against Exxon by fishermen and others hurt financially. Two major lawsuits were filed in August 1989 against the company, one by the State of Alaska and the other by a coalition of environmental organizations. The State of Alaska sued Exxon and other companies associated with the Alyeska Pipeline Service Company on August 16, seeking damages for destruction of the environment and fisheries economy, a fine of up to \$100 million, and an injunction ordering Exxon to continue the cleanup it stopped in September. A week later, nine environmental organizations—the Sierra Club, Defenders of Wildlife, Natural Resources Defense Council, Greenpeace, the National Audubon Society, and four Alaskan groups—sued Exxon Corporation and the Alyeska Pipeline Service Company, charging them with violation of the Clean Water Act and the Resource Conservation and Recovery Act; the latter suit asks the court to issue formal legal rulings that the corporation is entirely responsible for full cleanup of all areas damaged by the spill, was in violation of federal law, and is liable for civil damages.¹⁵

In a bizarre turn of events, Exxon countersued the State of Alaska on October 24, 1989, charging that it was hindered in its cleanup attempts by state opposition to its use of chemical dispersants.¹⁶

In October, the State of Alaska mandated that all ships be accompanied by tugboats on leaving the Sound, that they proceed only during daylight hours, and that they have a state-approved cleanup plan in case of a spill.

The Fish and Wildlife Service has announced a five-year study to determine how oil has affected the Bald Eagle populations of the Sound. A study of the long-term effects of the spill, funded at \$15 million by the Exxon Corporation, will include the National Marine Fisheries Service, the State of Alaska, the Agriculture Department, and the Department of the Interior.¹⁷

The Exxon Corporation temporarily ceased its cleanup work in mid-September, having spent, by its own accounting, over \$1 billion. The beaches, however, still contain large amounts of oil, both on the surface and having sunk to a depth of six feet or more, and it is expected that oil will continue to ooze from the sand for up to a decade. As the crews were withdrawn, Fish and Wildlife Service biologists reported a resurgence in bird kills in the area near Kodiak Island, 400 miles from the spill site. Michael Payne, a marine biologist who worked in the spill cleanup, observed that intertidal areas were greatly disturbed and that remaining oil on the beaches is turning them into asphalt.¹⁸ Long-term effects on marine ecosystems are expected to be severe.

The trial of *Exxon Valdez* Captain Joseph Hazelwood for felonies involving negligence, filed by the U.S. Coast Guard and the State of Alaska, proceeded in early 1990. However, he was only found guilty of a misdemeanor; he was fined \$50,000 and ordered to spend 1,000 hours cleaning oiled beaches. He will appeal the sentence. In late February, a federal grand jury indicted the Exxon Corporation and Alyeska Pipeline Service Company on behalf of the Justice De-

partment on five criminal counts. Penalties could exceed \$600 million if Exxon is convicted. Two felony counts charged Exxon with failing to insure that the ship was operated by competent crew members under the Ports and Waterways Safety Act. Three misdemeanor charges were based on the Clean Water Act, the Refuse Act, and the Migratory Bird Treaty Act.

Gillnets Drowning Sea Birds

Gillnets used by Japanese salmon fishermen have been responsible for the deaths of nearly 10 million Pacific sea birds since 1952, according to studies by the International Council for Bird Preservation. Annual mortality is between 250,000 and 750,000 birds. Species of birds most affected by the kill are the Thick-billed Murre, the Short-tailed Shearwater, the Horned Puffin, and the Tufted Puffin, but 21 species have been identified as victims. In 1984 alone, the National Marine Fisheries Service reported that more than 50,000 shearwaters and 20,000 puffins died in Japanese driftnets. These nets also kill up to 125,000 marine mammals per year. Diving into the sea for fish, the birds become entangled in the gillnets that can trail 35 or more miles in length. Lost and discarded nets continue to trap birds until the nets sink to the sea floor after about two years. Every year more than 600 miles of these nets begin "ghost fishing," floating free and entangling their victims.

Most sea birds were added to the Migratory Bird Treaty Act in 1972, including all the species now being caught accidentally in nets. Jurisdiction within a three-mile limit of U. S. coasts should lie with the U. S. Department of the Interior (USDI), but in 1987, an Administrative Law Judge and the National Oceanic and Atmospheric Administration (NOAA) made a decision on this issue. USDI considers it their responsibility under the Migratory Bird Treaty Act, while NOAA disagreed. The legal responsibility remains a clouded issue.¹⁹

A coalition of environmental groups united to form the Entanglement Network to help solve this critical problem. One of its goals has been achieved: U. S. ratification of Annex V of the Marpol Convention, an international agreement designed to regulate pollution from ships. Annex V, now ratified by 19 nations, outlaws the dumping of plastics at sea. But until nations carrying 50% or more of the world's shipping by tonnage have ratified, plastic and garbage continue to be thrown overboard because the treaty's criterion has not been officially met.

The State of California has closed some areas to fishing to decrease mortality, and the Fish and Wildlife Service and National Marine Fisheries Service have announced that they will start prosecuting fishermen who take harbor porpoises or sea birds in their nets.

Australia banned the use of driftnets more than 1.5 miles long off its north-east coast. Driftnets are being discarded by countries in many parts of the globe, but if action to remedy the situation is not taken soon, extinctions of some species may result.

A major victory against the high mortality caused by driftnets was won in 1988. A lawsuit brought by environmental organizations and a fishermen's organization in Alaska challenged the Department of Commerce's permits to Japan to allow the drowning of 5,250 Dall's Porpoises and other sea mammals in salmon nets. The case went to the Supreme Court, which in July 1988 refused to

issue a stay of a lower court decision in favor of the environmentalists. The decision was formally appealed, but the U. S. Supreme Court refused to reopen the case. Thus, the 146 Japanese catcher boats and their mother ship may no longer legally enter the 200-mile limit off Alaska's shores. The number of seabirds whose lives can be saved by this ban may well be in the millions. But on the high seas, the fishing fleets of Japan, Taiwan, and Korea deploy tens of thousands of miles of driftnets every day. The vessels range over an area the size of the continental United States. Countless birds fall victim to them.

In December 1989, the United Nations approved a resolution banning driftnets on the high seas. After much urging, Japan voted for the ban, due to take effect in July 1991. However, Taiwan and Korea do not belong to the U.N. and are not subject to its decisions. Seven hundred vessels are currently setting driftnets in the Mediterranean as well. The International Whaling Commission has endorsed the U.N. action.

Falconry

Falconry, the training of birds of prey to hunt on command, has been gaining in popularity in recent years. Falconers prefer to train nestling birds because they "imprint" on the owner, that is, they think of him as a parent. Second choice is "passage" birds, or wild birds of one year or less on their first migration. Birds kept by falconers spend their lives in cages or tethered to posts in backyards. Many of these birds escape while on training flights, but these birds rarely survive in the wild; they are encumbered by bells and leather thongs called jesses, which are attached to their feet, hindering movement and warning potential prey. Moreover, these birds are often in poor condition from improper care. The Society for the Preservation of Birds of Prey discovered that of 333 hawks held in California by falconers, 235, or 71%, were "lost" during the same year. Of 1,000 raptors requiring treatment at a California wildlife hospital, almost one-third had been previously kept as pets or used in falconry. Their contact with man was the disabling factor.

The two species most coveted by falconers are the Peregrine Falcon and the Gyrfalcon. Both are listed on Appendix I, the endangered category of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). This treaty regulates trade in declining, rare, threatened, and endangered species. In addition, the Peregrine Falcon is listed as endangered under the U. S. Endangered Species Act except the arctic subspecies, *Falco peregrinus tundrius*, which is listed under the Act as threatened.

When birds of prey were added to the Migratory Bird Treaty Act in 1972, it became a federal responsibility to regulate possession, sale, purchase, and capture of these birds. In the absence of federal regulations, states had adopted their own regulations concerning birds of prey and falconry, with most states permitting capture and possession of non-endangered species under permit. When the federal government proposed falconry regulations a few years after the 1972 Treaty granting them the authority, a furor resulted: 16,000 comments from state authorities, falconers, conservationists, and concerned individuals were sent in to the Fish and Wildlife Service on the proposed falconry regulations. Most falconers found the regulations too strict, while many bird lovers held the opposite view.

The 1976 regulations set up a system of joint federal-state permits for

falconers. Falconry permit holders had to pass examinations on raptor care and biology. Most native birds could be taken from the wild under permit.

In September 1989, major changes to the 1976 regulations were finalized. The joint federal-state permit system was retained, and state programs will be certified by the Fish and Wildlife Service. Falconers were divided into three classes determined by knowledge, and facilities where raptors are kept must conform to standards set up by the Service. Raptors must be kept in "humane and healthful conditions," and the Fish and Wildlife Service can inspect premises, books, records, permits and wildlife held at anytime. Banding of wild-caught raptors will be required only for three species: Peregrine Falcon, Gyrfalcon and Harris' Hawk. All other raptors may be kept unbanded. The Peregrine Falcon and Gyrfalcon are both on Appendix I, the endangered category of CITES, and the Peregrine Falcon is also listed on the U.S. Endangered Species Act (ESA). The capture of rare and endangered species for the purposes of falconry is antithetical to the intents and purposes of the ESA and CITES Appendix I. These species and the rare and declining Harris' Hawk have been threatened by capture for falconry in recent years. Restrictions in the ESA should prevent capture of all subspecies of the Peregrine Falcon except the Arctic subspecies which is listed as threatened, leaving it open to the discretion of the Service whether to allow capture. CITES regulations do not prohibit capture but pertain to international trade, and therefore the Gyrfalcon may soon be captured for falconry on a permit basis.

On the positive side, the Service would tighten up the permit system. Any person who had been convicted or pleaded *nolo contendere* to a felony violation under federal or state law involving wildlife, will be denied a permit from the Service or will have a permit revoked, disqualifying the permittee for a period of five years or longer from receiving a permit. An appeal process allows applicants to receive due process.

Trade in Captive-bred Raptors

In July 1983, after years of pressure from falconers, the Endangered Species Act was amended to allow purchase, barter, and sale of captive-bred raptors. The announced intent of the regulations was to take pressure off wild populations created by those who wished to buy birds of prey, but the results were disastrous. In June 1984, the Fish and Wildlife Service announced the results of "Operation Falcon," a three-year undercover investigation of illegal sales of birds of prey. Fifty-eight people were convicted under the Lacey Act, the Migratory Bird Treaty Act, the Endangered Species Act, and various state laws. At least half of those arrested were members of the North American Falconers' Association, and one was a vice president. Fish and Wildlife Service agents found that 400 or more native raptors had been illegally taken from the wild and represented as captive-bred. Most of the raptors were sold abroad in West Germany, Finland, and Saudi Arabia. Seventeen wild Gyrfalcons captured in Montana were sold to Crown Prince Abdullah of Saudi Arabia between 1982 and 1984. They were smuggled on a commercial airline with the aid of employees of the Saudi Arabian Embassy in the United States. On August 14, 1986, the U. S. Justice Department announced that the Prince would pay the U. S. Fish and Wildlife Service a fine of \$150,000—the largest ever paid in a wildlife case—as

an out-of-court settlement. Unfortunately, the birds, for which he had paid \$170,000, were not returned to the U. S.

The majority of the illegalities brought to light by the sting involved falconers who stole eggs and chicks from the wild and sold them as captive-bred birds. Besides the loss of birds to wild populations, at least half of the smuggled birds died during handling and trading, according to the Fish and Wildlife Service. The market for falconry birds is growing worldwide, and methods of smugglers are becoming more and more sophisticated. In 1985 and 1986, hearings were held by the Department of the Interior to consider cancellation or modification of the regulations, which have led to so much criminal activity.

Caving in to the pressure from falconers, the Fish and Wildlife Service proposed regulations in December 1987, finalized in September 1989, to reopen the trade in native raptors. The regulations issued by the Service will allow sale of captive-bred birds that must have seamless leg bands; these bands can be placed on birds only when the birds are aged two to three weeks or less. It is possible that some will be able to rob raptor nests by watching the nests for breeding activity, taking eggs or newly hatched chicks, and placing seamless bands on the young birds. These birds could then be sold as if they had been captive-bred. Since the value of such birds can be as much as \$50,000 per bird, the surveillance of wild nests would be worthwhile for would-be smugglers. Since the bands are issued only by the Fish and Wildlife Service to permittees with raptor propagation licenses, it will be of great importance for the Service to police these permittees and bands with the utmost care.

Reopening this trade is indefensible. Illegal taking of our native birds of prey can be expected to resume and reach the same proportions it did in the past, or exceed them. The costs of policing this tiny minority of a few thousand falconers are borne by the American public, and worse, the conservation of our native birds will not be served, a major principle of the Migratory Bird Treaty Act that the Service is entrusted to enforce.

Taxidermy

In the 19th century and even today, stuffed birds mounted and posed against painted landscapes are common museum displays, but their use as educational tools has waned because photographs and films are far more enlightening and instructive. The taxidermy trade, however, shows no signs of fading away. The Migratory Bird Treaty Act has disallowed the possession and sale of birds salvaged from road kills by individuals, as well as those killed by hunters or dead from other accidental causes. But illegal killing for sale continues. A few years ago, Fish and Wildlife Service agents arrested a man who had shot an endangered Peregrine Falcon and taken it to a taxidermist who stuffed and mounted it. Enforcement officers recognized the antenna mounted by biologists on its body to follow its movements—it was still in place. The captive-bred bird had been released as part of a program under the Endangered Species Act to repopulate the East with Peregrine Falcons.

In February 1987, a retired Long Island taxidermist and his son, who had been found in illegal possession of 293 stuffed birds, including a Bald Eagle and a Peregrine Falcon, were sentenced to prison—six months for the father and two months for the son; they had sold stuffed birds as well.

The market for stuffed birds is a threat to native species. At present, the Fish and Wildlife Service allows a small number of birds that died from natural causes to be salvaged, if used as museum specimens. Commercial sale of native birds should never be permitted.

THE BALD AND GOLDEN EAGLE PROTECTION ACT

Enacted in 1940, the Bald Eagle Protection Act was intended to save our national symbol from extinction. For the first time, it became a federal offense to kill Bald Eagles. Penalties under the Act were similar to those under the Migratory Bird Treaty Act, a \$500 fine and/or six months' imprisonment for each offense. For decades prior to passage of this legislation, these magnificent birds had been shot by hunters for "sport" or because of the alleged damage they did to fisheries. Unfortunately, when enacted, the nation's most persecuted eagles in Alaska were exempted from the provisions of the Act. Not until 1959, 19 years after its passage, was this exemption eliminated by amendment. Over 100,000 Bald Eagles had been killed and their feet presented for Alaska's bounty payment before these birds received protection.

In 1962, the Act was amended to extend protection to Golden Eagles, primarily in order to protect immature Bald Eagles, which resemble them. As applied to Golden Eagles, the Act allowed killing to protect domestic livestock, under special permit from the Secretary of the Interior, or at the request of the Governor of a state.

Although permits were at first granted frequently, by 1970 the Secretary of the Interior issued an administrative policy mandating that no further "blanket" permits would be issued to kill Golden Eagles. The 1962 amendments to the Act allowed the taking and possession of both eagle species by Indian tribes for religious purposes only.

In 1972, after the much publicized illegal killings of Golden Eagles by ranchers in Wyoming, who paid gunners to shoot some 800 of these birds from helicopters, penalties were increased for violations. Maximum fines increased from \$500 to \$5,000 and/or one year's imprisonment for the first offense and \$10,000 and/or two years' imprisonment for subsequent offenses. The amendments also specifically included poisoning within the definition of taking, since several Bald and Golden Eagles had been poisoned by ranchers. The 1972 amendments also included the same high penalties for possession of eagle feathers, nests, or eggs, and made federal grazing permits subject to cancellation for violations of the Act. The amendments also added a new facet to the enforcement of the Act: one-half of any fine can be paid to a person who provides information leading to a conviction under the Act.

Despite these strict laws prohibiting the killing of Bald and Golden Eagles and listing of Southern Bald Eagles by the Endangered Species Act in 1976, eagle killings have continued. Many killings are deliberate or accidental shootings by private citizens flouting the law or ignorant of the identity of their targets.

According to Fish and Wildlife Service records, between 1980 and 1982 alone, 197 Bald and 187 Golden Eagles were found dead. The cause of most deaths was shooting. In 1983, after a two-year undercover investigation by the

Fish and Wildlife Service, the largest ring of traffickers in the history of the Bald and Golden Eagle Protection Act was exposed. Three hundred Bald Eagles had been killed in the previous three years near a South Dakota wildlife refuge established to protect this species. Fifty people were charged.

The resurgence in the black market for Bald Eagle feathers is fueled by the high prices now obtained. War bonnets of eagle feathers sell for up to \$5,000, and by the end of 1984, prices had risen to \$50 to \$100 per feather. Talons, also used as trinkets, sell for \$35 to \$50 a pair. A lawsuit brought in 1984 by the Fish and Wildlife Service against a Sioux Indian for selling eagle feathers tested the portion of the Act relating to the use of eagle feathers by native Americans. The sting operation had uncovered widespread shooting of eagles by native Americans who sold the eagle feathers to tourists and collectors. The 1962 amendments to the Act allowed taking for religious purposes only, but some native Americans claimed that they had the legal right to sell eagle feathers. This suit reached the Supreme Court, and in July 1986, the Court ruled in favor of the Government. Its decision banned all sales and allowed only possession and donation without financial recompense of eagle feathers. Many eagle feathers and trinkets are sold in European countries as well as the United States.

Ranchers continued to lobby for the right to kill Golden Eagles for their alleged threat to sheep and lambs. The Fish and Wildlife Service issued a report in 1978, "Golden Eagle Management, A Conceptual Plan," which reexamined the Act and suggested more research on populations of eagles and new management plans to address the conflicts between eagles and man. Livestock losses caused by Golden Eagles have been the subject of several Department of the Interior and independent studies. Most authorities agree that livestock owners can keep to a minimum or avoid losses altogether by the use of lambing sheds, removal of carrion, and the use of shepherds and shepherd dogs.

In 1978, the U. S. Congress weakened the Act by allowing strip miners to destroy Golden Eagle nests in the West, and in 1981, regulations permitted destruction of unoccupied Golden Eagle nests elsewhere. In 1984, the Fish and Wildlife Service issued further regulations that allowed nest destruction if it was determined that there would be little or no long-term impact on the nesting population within a 10-mile radius.

In most of the West where jackrabbit populations are high, ecologists have pointed out that Golden Eagles should be valued by sheepmen because they eat the rabbits that consume much grass otherwise available to sheep. Nevertheless, the pressures of ranchers and strip miners have succeeded in reducing the numbers of Golden Eagles. The weakening of the Act makes the future of this species uncertain.

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1. Species of birds are capitalized in this chapter while general terms such as "ducks" are not.
 2. Shore birds are not considered game birds under the Act, however, nor are many rails. Doves, pigeons and the Sandhill Crane have been added as game birds.
 3. Museum of Natural History, University of Kansas, Lawrence, KS, 66045, State Wildlife Regulations, Vol. III of their wildlife legislation series, 1985.
 4. *American Birds*, Vol. 43(2):218-220, Summer 1989.
 5. *Living Bird Quarterly* (Cornell Laboratory of Ornithology), p. 4, Autumn 1989.
 6. *Ibid.*

7. *World Birdwatch* (International Council for Bird Preservation), July-Sept. 1989, Vol. 11(5):1.
8. *Ibid.*
9. *New York Times*, September 16, 1989 (*Science Times*).
10. *Ibid.*
11. *Ibid.*
12. *Sierra Club Legal Defense Fund Quarterly Newsletter*, Summer 1989.
13. *New York Times*, September 16, 1989 (*Science Times*).
14. *Ibid.*
15. *Sierra Club Legal Defense Fund Quarterly Newsletter*.
16. *New York Times*, October 25, 1989.
17. *New York Times*, April 13, 1989.
18. *Patriot Ledger*, September 16, 1989.
19. *U. S. Birdwatch*, Vol. 1, No. 2, Oct. 1987. Newsletter of the U. S. Section of the International Council for Bird Preservation.

Chapter XIII

THE LAW AND THE NON-HUMAN PRIMATE TRADE

by Shirley McGreal

INTERNATIONAL PRIMATE PROTECTION LEAGUE

The international traffic in non-human primates has been in existence for centuries. In early days, the trade centered on traffic in monkeys for the pet trade. At the Court of Louis XIV, it was considered fashionable for ladies to wear marmosets in their hair. The use of monkeys for experimentation existed to a minor extent until the 1950s, when massive trafficking of monkeys for polio vaccine development and other research projects started.

The principal source for the mass international movement of monkeys was India, in spite of that country's tradition of reverence for monkey life.

Another stimulus to increased trafficking of primates was the establishment, starting in 1960, of seven Regional Primate Centers by the U. S. government.

Currently, numbers of primates being trafficked have declined. Less monkeys were used once the polio vaccine was in production.

In its early days, the monkey trade was relatively unchallenged, and the public's consciousness of the problems faced by wild primates in captive settings, especially laboratory settings, was low. In 1973, the International Primate Protection League (IPPL) was formed by the writer with a major goal of ending the trafficking of live primates, which the League compared to the slave trade of old under which humans were caught, snatched from their families, and shipped to lives of slavery overseas, never to see their homelands again. IPPL's role in persuading primate habitat countries to ban or restrict exportation of apes and monkeys will be described later in this chapter.

In addition, as world primate populations declined, countries began to be concerned at the possible extinction of their wildlife species. In general, the primate trade has been in the hands of foreigners who have settled in primate habitat countries to exploit the local wildlife, such as Franz Sitter, an Austrian chimpanzee trafficker residing in Sierra Leone; Ted Patterson, a British expatriate who dominated the Indian monkey trade for decades; and Michael Tsalickis, a U. S. resident who dominated Colombia's export trade for decades from his base in Leticia.

Countries began to enact protective legislation for primates and other animals in the late 1960s and early 1970s. The South American nations of Brazil, Colombia, and Peru were among the first countries to ban primate exports.

Currently, the international primate trade is regulated by an international treaty and domestic legislation in importing and exporting nations.

For example, many primate species are listed on the U. S. Endangered Species List as "Endangered," and import/export, interstate traffic and usage are controlled. Sixteen primate species are listed as "Threatened," and export/import are controlled, but not interstate traffic or use.

The Convention on International Trade in Endangered Species (CITES), which came into effect in 1973, has two appendices. Appendix I lists those species in immediate danger of extinction for which the strongest protective measures are required. Primates listed on Appendix I include all ape species (gorillas, chimpanzees, orangutans, gibbons, and siamangs), all lemurs, and many species of monkeys. Appendix II lists those species to which unrestricted trade could cause a threat. Many primate species are or have been subjected to high-volume international trade. Because of the potential of trade to hurt primate species, all species not listed on Appendix I were placed on Appendix II in 1977.

In the case of Appendix I species, both import permits issued by the importing country and export permits issued by the country of origin are required. Export permits are, in theory, only issued when both Management and Scientific Authorities of the exporting nation are satisfied that the animals were legally acquired and that removal from the wild will not harm the survival chances of the species. Commercial trade in Appendix I species is not permitted.

In the case of Appendix II species, only an export permit is required, and export permits should, in theory, only be allowed when the exporting country is satisfied that "such export will not be detrimental to the survival of the species."

As of May 9, 1990, CITES had 106 member nations.

In 1964, the United States imported 102,080 primates. The number declined to 69,548 in 1978; 32,659 in 1976; 16,651 in 1982; and 13,148 in 1983, according to government statistics.

However, large numbers of primates are in use (about 55,000, according to U. S. Department of Agriculture statistics). Many monkeys are "recycled" from experiment to experiment for many years before finally being killed. Over 10,000 monkeys a year are born in U. S. breeding facilities, over half being Rhesus monkeys.

A continent-by-continent review of the current world trade in primates follows.

SOUTH AND CENTRAL AMERICA

Most South American primates entering trade have been caught in the Amazon basin. In the past, major centers of export have been Iquitos, Peru; Leticia, Colombia; and Benjamin Constant, Brazil. Brazil banned all primate traffic as early as 1967, but smuggling of Brazilian primates to Bolivia and Paraguay has been a constant problem. Highly endangered Golden lion tamarins found only in Brazil turn up occasionally on Belgian, Japanese, and Argentine markets. In 1973, Peru banned primate exports, and in 1974, Colombia followed suit. Later, Peru relaxed its ban under pressure from the U. S. government's Interagency Primate Steering Committee and set up a facility to breed primates for export and permitted export of wild-caught primates, including mustached tamarins, squirrel monkeys, and owl monkeys, to U. S. research laboratories. About 600 monkeys now leave Peru annually.

Because of the shortage of research primates, the U. S. Centers for Disease Control banned importation of primates for the pet trade in 1975 and seized primates from individuals returning from overseas with animals they had acquired

overseas. However, importers continued to import primates, and many found their way into the pet trade. Unfortunately, this traffic is flourishing today, with animal dealers offering pet primates for sale in daily newspapers in most American cities and even advertising in the *National Enquirer*.

In May 1984, Bolivia banned all export of primates, largely as a result of pressure from the dynamic Bolivian Wildlife Society. Unfortunately, USAID managed to subvert the primate export ban and arranged the export of 341 squirrel monkeys and 20 owl monkeys on 15 January 1986 through a commercial animal dealer. Bolivian authorities arrested the U. S. dealer involved and confiscated his passport. The State Department helped arrange the dealer's return on a private plane to the United States via Paraguay, and he is still engaged in trafficking in wild-caught primates.

Guyana banned all export of primates in 1976, but lifted the ban subsequently and is now a major supplier of primates to the international wildlife trade. Some endangered Guyanan primates have been smuggled to Polish zoos.

Smaller numbers of monkeys are exported from Honduras. Honduras was the source of 30 monkeys (capuchins and spiders) confiscated at Kennedy Airport by the ASPCA on 1 March 1989, after being left outside exposed to the cold, which caused the deaths of 8 of the monkeys.

South American primates in demand for research are squirrel monkeys, marmosets, tamarins, and owl monkeys.

An interesting development occurred recently that shows how the drug traffic and monkey traffic are sometimes linked. Michael Tsalickis, the dealer who operated for several decades out of Colombia, was convicted of cocaine smuggling and sentenced in March 1989 to 27 years in prison.

CARIBBEAN

In recent years, a new source of research primates has been developed by North American entrepreneurs and experimenters. During the years of the slave trade, African primates were introduced to several Caribbean islands and became established. At the present time, African green monkeys are being exported from the islands of St. Kitts and Barbados to U. S.-based animal dealers. The trip from the Caribbean to the United States is relatively short, and mortality in transportation and quarantine is lower than that associated with the importation of green monkeys from Ethiopia, Somalia, and Kenya.

Locally in the Caribbean, monkeys are frequently considered to be "pests" because they raid sugar fields and other crops. Some islands even have a bounty on monkey tails. Among the methods used to catch Caribbean monkeys are baited box traps and leghold traps.

AFRICA

According to U. S. government statistics, no African country exported more than a thousand primates to the United States in 1982 or 1983. However, Ethiopia is a major supplier of primates to the Soviet Union.

Baboons and African green monkeys are the most frequently traded African primates. They are considered to be "pests" in parts of their range close to human habitations and are heavily persecuted.

The principal African exporters of primates are Ethiopia (671 primates shipped to the United States in 1983), and Kenya (393). Smaller numbers came from Somalia, Nigeria, Senegal, and Zimbabwe. Large breeding programs in the United States have lessened the demand for imported baboons.

Patas monkeys are exported from Africa to France for use in polio vaccine preparation.

Mangabeys are coming into increasing use in leprosy and AIDS research.

Africa has two of the ape families: gorillas (Western lowland, Eastern lowland, and Mountain), and chimpanzees, the latter including Pygmy chimpanzees.

Gorillas are in great demand for exhibition. A gorilla display adds to the revenue of any zoo. Controlling the gorilla trade is a major problem, with greedy entrepreneurs seeking profits from the sale of baby gorillas. The normal method of catching gorillas is to shoot a mother and protective adults to get a baby for sale. Gorillas are also hunted for "trophies," such as skulls, mounted hands and feet, etc. Gorillas are also poached by hunters wishing to eat them or sell their flesh on the meat market. This meat trade is often cited as a pretext by those who obtain baby gorillas. The extent of this trade is unknown and requires a careful study to distinguish between self-serving exaggerations, produced by animal dealers, and fact.

Although gorillas are fully protected under CITES and by local legislation in most countries, some trade occurs. In 1984, a U. S. animal dealer attempted to import seven wild-caught gorillas for sale to zoos at \$72,000 each. A worldwide campaign by the International Primate Protection League aborted this deal. The animals were eventually exported on a non-commercial basis to a Dutch zoo.

In 1984, the Granby Zoo, Quebec, Canada, imported one baby wild-caught gorilla from the Cameroonian animal dealer Benjamin Onawa, who subsequently mounted a hunt that led to the capture of a young male gorilla intended for Granby. Acting under heavy pressure from conservationists, Canada refused Granby an import permit. The lone female at Granby was dragged around TV studios and eventually developed tuberculosis. It appears that the captured male gorilla ended up in Japan, an offer from an African facility to accept him to join a young female having been refused.

In January 1987, three young gorillas were smuggled from the Cameroon en route to Taipei Zoo, Taiwan. Two of the hapless gorillas died on the flight from Kinshasa to Zaire. The shipment came to light when the Japanese company that had insured the shipment called in veterinary help to save the last baby gorilla. Each animal was insured for \$150,000, so the desire to keep the baby gorilla alive was hardly charitable. The survivor did reach Taipei Zoo. After IPPL provided proof that the gorillas had been smuggled, the insurance claim on the two dead gorillas was denied since contraband is uninsurable.

Telexes pertaining to the shipment were obtained by the International Primate Protection League and revealed that a German animal dealer named Wal-

ter Sensen and a Japanese dealer named Keihin Chojo were involved. Unfortunately, neither dealer ended up in jail in spite of the international storm over the shipment.

The plight of the wild gorillas of Africa is indicated by the acquisition of 30 infant gorillas between April 1986 and July 1988 by Mrs. Yvette Leroy, a French resident of the Congo Republic. Only four of these gorillas survived. Congolese authorities appear unable to control gorilla trafficking and the activities of poachers based in the forest camps. Recently, a Gorilla Rescue Center was established in the Congo funded by John Aspinall of Howletts' Zoo in England.

The German animal dealer Walter Sensen informed his clients in 1988 that he had just signed an agreement with the nation of Equatorial Guinea for the export of gorillas and chimpanzees. Sensen enclosed a photo of a European woman and several Africans holding eight young gorillas. Two gorillas, presumably from Equatorial Guinea, reached Spain from Africa in 1987 and were exported to a Japanese animal dealer. The animal dealer was not allowed to sell them because of questions about their claimed captive birth. Spanish authorities asserted that the animals were born in a Spanish circus. The CITES Secretariat approved of the dealer disposing of the gorillas but later learned that there were no gorillas at the circus, proving that the claim of captive birth was fraudulent.

Unfortunately, the publicity surrounding Sensen's gorilla trafficking did not deter him from future activities. After being expelled from the Cameroon, Sensen and his son Emanuel took up residence in Equatorial Guinea, setting up an animal compound in Bata, on the mainland, and shipping gorillas and chimpanzees on Iberia Airlines from the country's capital, Malabo, located on an offshore island. Sensen soon established a network of hunters and poachers to provide him with gorillas. In June 1989, he was able to ship two gorillas from Equatorial Guinea to the Guadalajara Zoo, Mexico, for the sum of \$130,000. Sensen received \$100,000 in the form of a check, which he deposited into his account at the Bank of America in Concord, California, plus \$30,000 in cash.

When the International Primate Protection League informed the Mexican press about the deal, there was nationwide publicity and condemnation of the zoo. But the gorillas were not confiscated, since Mexico, a non-member of CITES, had issued an import permit for the animals. The publicity turned the two unfortunate gorillas into a great draw for the Guadalajara Zoo; in effect, they have paid for their own incarceration and rewarded all who took part in the disgusting trafficking that destroyed their families and brought them into joyless captivity so far from their homelands.

Even the highly endangered Mountain gorillas are not exempt from poaching. Two adult gorillas were killed in Uganda in 1988, and their infant was taken across the Rwandan border to an unknown destination.

The Pygmy chimpanzee lives only in Zaire. It has just been proposed for addition to the U. S. Endangered Species List in the category "Endangered." Pygmy chimpanzees have been smuggled from Zaire to Belgium in recent years. Dr. Roland Corluy, of IPPL (Belgium) was able to get into the basement of the Belgian animal dealer George Munro in 1983 and observed seven infant Pygmy chimpanzees and two adults, all awaiting sale to unknown parties. It is

not clear how these animals were able to escape official attention at Kinshasa Airport.

Munro admitted to Corluy that he trafficked about 200 chimpanzees a year. One of his customers is a Polish laboratory, another an Austrian laboratory. Belgium joined CITES in 1984, and it appears that Belgium's trade in wild-caught chimpanzees has stopped.

However, 30 chimpanzees were exported by the Austrian expatriate animal dealer Sitter from Sierra Leone to Japan in 1985. Sitter exported 20 more chimpanzees in June 1986. Their destination was an Austrian laboratory.

Large numbers of chimpanzees are reaching Spain where they are acquired by photographers who persuade tourists to pay to be photographed holding the orphaned animals. Efforts to suppress this trade have not been successful, and beach chimpanzees have been found in Italy, Israel, and Mexico. This trade is cruel and inhumane; the chimpanzees' teeth are removed to prevent them biting, and they are tranquillized. Once the animals reach 4-5 years, they are discarded (shot or sold). Some lucky ones reach a small sanctuary near Barcelona directed by Simon and Peggy Templer.

The high demand for chimpanzees has led users to establish chimpanzee laboratories in African countries. The New York Blood Center operates a facility holding over 100 chimpanzees in Liberia. The ELF Petroleum Company of France funds a research center in Gabon where the experimental animals include chimpanzees. Austria's Immuno A.G. is hoping to establish a facility in Sierra Leone. The U. S. Department of Defense has a contract that includes experimentation on chimpanzees at a Zairian facility; 4 chimpanzees have already been exported from Zaire to France, and 30 are under study in Zairian facilities. In addition, a U. S. laboratory is planning to enter into a joint venture with the Chinese government to establish a chimpanzee laboratory.

Chimpanzees are disappearing mysteriously from habitats such as Tanzania's Gombe Stream Research Center and Uganda's Budongo Forest. Over 12 chimpanzees are known to have been exported from Uganda to Dubai in the United Arab Emirates in 1987 and 1988.

As a result of the depletion of wild chimpanzees and the continued problems of trafficking, the U. S. Fish and Wildlife Service proposed in 1989 to upgrade wild-living chimpanzees and captive chimpanzees in their range states to "Endangered" on the U. S. Endangered Species List, while leaving captive colonies in the United States and non-range countries (such as Austria, France, and Japan) in the "Threatened" category.

ASIA

The Asian primates most in demand for research purposes are the macaques, especially the Long-tailed macaque (also known as Crab-eating and Java macaque, and cynomolgus monkey) and the Rhesus monkey.

Both India and Bangladesh used to export large numbers of Rhesus monkeys. However, both banned further exports after IPPL drew the attention of the people and governments of these countries to the misuse of exported monkeys in military experimentation. Currently, China exports Rhesus monkeys. Viet-

nam supplies the Soviet Union with Rhesus monkeys, and the Soviet Union supplies some Vietnamese Rhesus to the United States.

The traffic in Crab-eating macaques increased following the Rhesus export bans. Thailand already had a ban on all primate exports; however, animals were exported from the Philippines, Malaysia, and Indonesia. Malaysia banned primate exports in 1985, but both the Philippines and Indonesia continue trading monkeys. A monkey export ban announced by the Aquino government collapsed under pressure from the United States and local and foreign animal dealers operating in the country.

Leaf-monkeys fare badly in captivity, and few are traded. Since 1987, unscrupulous Thai dealers have managed to obtain the fragile, rare, and lovely Douc langurs. They have turned up in Polish zoos and at Singapore Zoo and a private breeder's facility in Singapore.

Certain rare Chinese primate species are being exported to U. S. zoos, and some "golden monkeys" have been loaned to U. S. zoos for temporary exhibition.

The apes of Asia (the orangutans and gibbons) are on Appendix I of CITES and have enjoyed protection under local laws for many years. However, two baby orangutans recently turned up in Poland. The animals were said to have been born in captivity at a Cambodian zoo. However, Cambodia has no zoos, and the orangutans were certainly smuggled from Borneo or Sumatra. In May 1987, two orangutans were seized at Roissy Airport, Paris. They were on their way to Mexico. Gibbons are turning up in Polish zoos and in Japanese pet shops.

MADAGASCAR

Madagascar is home to the unique lemurs. Some lemurs are legally exported to scientific research facilities, but few are reported in commercial trade.

What is known about the traffic in non-human primates is, unfortunately, the tip of the proverbial iceberg.

International law and treaty do provide limited protection for primates. However, enforcement is weak and the motivation of the dealers and smugglers is strong.

Chapter XIV

INTERNATIONAL ANIMAL PROTECTION

by Christine Stevens

TREATIES FOR HUMANE TREATMENT OF ANIMALS

The European Convention for the Protection of Animals During International Transport was adopted by the Council of Europe in 1968 and entered into force on February 20, 1971. It has now been ratified by 20 of the 23 Member States of the Council of Europe. An Additional Protocol to the Convention was adopted in 1979 to enable the European Community to become a Contracting Party. The Convention specifies the conditions to be adhered to during transport by road, rail, air, or water of domestic and wild mammals, birds, reptiles, and amphibians. The full text appears in the Appendix.

The Council of Europe is responsible for the 1979 **Convention on the Protection of Animals for Slaughter** and the **European Convention for the Protection of Animals Kept for Farming Purposes**, which deals with intensive livestock production, providing that domestic animals should live in conditions that respect the physiological needs of the animals and approach natural conditions as closely as possible. These agreements appear in full in the Appendix.

The Committee of Ministers of the Council of Europe approved the **European Convention on the Protection of Vertebrate Animals Used for Experimental and Other Scientific Purposes**, March 18, 1986. Various versions of this treaty had been under consideration since 1971. The final document is comprised of 11 parts and 27 articles. Following are salient points:

The environmental conditions in which animals are bred, kept or used must be checked daily.

The well-being and state of health of animals shall be observed sufficiently closely and frequently to prevent pain or avoidable suffering, distress or lasting harm.

A procedure shall not be performed for any of the purposes mentioned above, if another scientifically satisfactory method, not entailing the use of an animal is reasonably and practicably available.

Straying animals of a domesticated species shall not be used in procedures. A general exemption made under the conditions of paragraph 1 of this Article may not extend to stray dogs and cats.

In order to avoid unnecessary repetition of procedures for the purposes of satisfying national legislation on health and safety each Contracting Party shall, where practicable, recognize the results of procedures carried out in the territory of another Contracting Party.

The International Committee on Laboratory Animals has recommended that all nations enact legislation for humane care and treatment of laboratory animals.

No plans for an international plenipotentiary conference on marine mam-

imals, in accordance with the federal Marine Mammal Protection Act of 1972, have been made. The Act's moratorium on killing before optimum sustainable population is established, and its requirement that a humane method be used when killing is permitted, should be adopted internationally.

A widely circulated draft Convention for the Protection of Animals was discussed following the 1984 meeting of the International Union for the Conservation of Nature in Madrid. It is designed to institute a practical mechanism to resolve differences in animal protective legislation of the various states when they engage in animal trade at the international level. An attempt to bring it to a vote at the 1985 CITES meeting in Buenos Aires was unsuccessful.

International recognition of the right of animals to humane treatment and to protection against extinction has been slow to come. Only a minute fraction of the needed protection has been addressed through treaties and through the activities of international organizations. However, a beginning has now been made from which greater progress can flow.

INTERNATIONAL AGREEMENTS FOR CONSERVATION OF WILD BIRDS AND ANIMALS

A **Convention for the Protection of Migratory Birds** was entered into by the United States and Great Britain in 1916. The 1918 Migratory Bird Treaty Act implemented this Convention and later the treaty of 1936 with Mexico. It was amended in 1974 to extend its provisions to the Convention between Japan and the United States. In November 1976, the **Convention between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment** was signed. In addition to providing protection to migratory birds, this Convention also encourages action to identify and protect important habitat and to protect migratory birds that are in danger of extinction. Similar bilateral treaties are in force between the U.S.S.R. and Japan and between Japan and Australia.

In 1940 the United States and 11 other American Republics agreed to the **Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere**, thereby expressing their desire to "protect and preserve in their natural habitat, representatives of all species and genera of their native flora and fauna, including migratory birds," and to protect regions and natural objects of scientific value. For the first time, several nations agreed to take major actions to achieve these objectives, including adoption of "appropriate measures for the protection of migratory birds of economic or aesthetic value or to prevent the threatened extinction of any given species." However, the Convention was a dead letter till 1977 when the Organization of American States appropriated \$25,000 to hold four conferences to achieve implementation of the Convention. The first, in Chubut, Argentina, near the National Marine Park that creates a sanctuary for the highly endangered Southern Right whales, concentrated on marine mammals.

In 1973 the **Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)** was signed in Washington by 61 nations. It has been ratified or acceded to by 106 countries (see Appendix).

In addition to protecting animals from extinction, the Convention specifies

in seven different places that the Management Authority must be "satisfied that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment."

The first meeting of the Parties to the Convention was held in Bern, Switzerland, November 1976, and substantial additions to Appendix I (endangered) and Appendix II (threatened) species were made. All cats and elephants were placed on one of the Appendices, all primates not already on Appendix I were listed on Appendix II, all sea turtles on Appendix I, and hundreds of species of birds were listed. At the 1978 meeting in Geneva, all raptors were listed and nearly all psittacine birds were put on Appendix I or II at the 1982 meeting in New Delhi. All the great whales were listed on Appendix I at that meeting or at the Botswana meeting in 1984. More psittacines were upgraded to Appendix I at the 1987 Ottawa meeting. At the 1989 meeting in Lausanne, the African elephant was moved from Appendix II to Appendix I, thus classifying all elephants as endangered.

The Stockholm Conference on the Human Environment, sponsored by the United Nations Environment Programme in 1972, unanimously passed a resolution calling for a ten-year international moratorium on the commercial killing of whales. The resolution, proposed by the United States, was based on resolutions adopted by the U. S. Senate and House of Representatives requesting the Secretary of State to seek the moratorium. It received a majority vote in the International Whaling Commission (IWC) in 1973, but despite massive international efforts, the moratorium failed to obtain the three-quarters majority required by the Commission until 1982. For further information on the IWC, see the chapter on marine mammals.

A treaty on polar bears was signed in 1973 and went into effect in 1976; however, its provisions are too weak to be conclusive even in the conservation area. It has no humane provisions.

The Convention on the Conservation of European Wildlife and Natural Habitats, known as the **Bern Convention**, has been ratified by 19 countries in addition to the European Community. It includes in its Appendix IV the following list of prohibited means and methods of killing, capture and other forms of exploitation:

Mammals

Live animals used as decoys which are blind or mutilated

Tape recorders

Electrical devices capable of killing and stunning

Artificial light sources

Mirrors and other dazzling devices

Sighting devices for night shooting comprising an electronic image magnifier or image converter

Explosives (except for whale hunting)

Nets (if applied for large-scale or non-selective capture or killing)

Traps

Poison and poisoned or anesthetic bait

Gassing or smoking out

Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition

Aircraft
Motor vehicles in motion

Birds
Snares
Limes
Hooks
Live birds used as decoys which are blind or mutilated
Tape recorders
Electrical devices capable of killing and stunning
Artificial light sources
Mirrors and other dazzling devices
Devices for illuminating targets
Sighting devices for night shooting comprising an electronic image magnifier or image converter
Explosives
Nets
Traps
Poison and poisoned or anesthetic bait
Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition
Aircraft
Motor vehicles in motion

Two other helpful nature-protection treaties to which the United States is also a party are the **World Heritage Convention** and the **Ramsar Convention**. However, the **Bonn Convention on Migratory Species** still has not been ratified by the United States. Following are descriptions of these international agreements, as summarized by Ralph Osterwoldt in *Naturopa* (No. 54-1986):

Convention concerning the protection of the world cultural and natural heritage (1972) or UNESCO's **World Heritage Convention** was the first international agreement which provided for a permanent administration and a financial fund to help developing countries as well as stipulating the legal duties of participating nations.

To draw attention to and protect natural and cultural areas of 'out-standing universal value,' UNESCO initiated this Convention to which 83 Parties now adhere.

The Convention imposes a legal duty upon Parties to protect their listed sites. Applying beyond borders, the Convention binds Parties not to take any deliberate measures which might damage natural and cultural heritage sites in other countries. This could be interpreted so as to disallow transfrontier pollution or grants of financial or technical aid to development projects such as hydroelectric dams which threaten bird sanctuaries or national parks. On this interpretation, Parties should also not permit excessive hunting of migratory birds which are en route to breeding or wintering sites on the World Heritage List.

To conserve its heritage for future generations, each Party is obliged to do all it can with its own resources and with international

assistance if available. Efforts will be made to establish services and staff, scientific research, training centres, and legal, administrative and financial measures, all within a policy which integrates heritage protection into development planning. (Secretariat of the World Heritage Committee, UNESCO, 7 place de Fontenoy, F-75700 Paris)

Convention on Wetlands of International Importance (Especially as Waterfowl Habitat) or Ramsar Convention (1971). The objective of the Ramsar Convention is to stem the loss of the wide variety of wetland habitats including mangrove swamps, marshes, fens, tidal flats, rivers, lakes and seashores. The Parties have designated more than 300 wetland sites covering some 20 million hectares which are of international importance because they support more than 10,000 ducks or 20,000 shorebirds, provide habitat for waterfowl and other vulnerable species during critical stages of their biological cycles, or are good regional examples of characteristic types of wetland.

The wise use of all wetlands, the establishment of nature reserves and cooperation in research and training is promoted. Parties pledge to conserve their own sites but on a broader interpretation, they should also not permit damage to wetlands elsewhere through transfrontier pollution or environmentally unsound development aid. Environmental impact assessments should precede and guide planned projects.

Today, 37 countries are party to the convention, named after the place where it was agreed: Ramsar, Iran. The List of Wetlands of International Importance is available from the IUCN, which serves as the 'Bureau' of the Convention, while UNESCO is the 'Depositary.' (Director-General, UNESCO, 7 place de Fontenoy, F-75700 Paris—IUCN Secretariat, Avenue du Mont-Blanc, CH-1196 Gland)

Convention on the Conservation of Migratory Species of Wild Animals (CMS) or Bonn Convention (1979). Migratory birds escape the northern winter by flying south, seals and sea turtles return to their beaches of origin to breed, and antelopes, gorillas, and zebras roam over wide ranges. En route, migrants run a gauntlet of hazards from hunters and hurricanes to pesticides and power poles, often only to find that their habitat has been destroyed by desert dunes or dam builders. Since such migratory species of wild animals regularly cross national boundaries, their conservation requires joint international action.

The Convention exists to facilitate the concerted action of countries with respect to particular migratory species throughout their range.

It endeavours to fully protect the migratory species listed on the Convention's Appendix I which are deemed 'endangered,' such as the white-tailed eagle, the Mediterranean monk seal, the Baltic population of the harbour seal, and the Palearctic populations of the white stork and the white pelican. Parties must prohibit their hunting and capturing and endeavour to mitigate such threats as habitat loss. The second

and central aim of the Convention is for Parties to conclude regional or bilateral formal conservation 'Agreements' to benefit Appendix II species which require conservation and management, whether or not they are endangered. Under such an 'Agreement,' the Wadden Sea seals are soon to be protected by Denmark, Netherlands, and F.R. Germany. Such 'Agreements' are also open to accession by range states which are not CMS Parties. The co-ordinating Secretariat in Bonn is provided by the United Nations Environment Programme (UNEP). (UNEP/CMS Secretariat, Ahrstrasse 45, D-5300 Bonn 2)

EEC Directive on the Conservation of Birds (1979). An agreement limited to members of the European Community (EEC), it is devoted fully to the protection of wild birds and their habitats. The member states are obliged by the Directive to maintain populations in ecologically viable numbers by preserving diverse habitat and regulating hunting and trade. The use of wild birds for commerce or sport is only to be considered if the population surpasses optimal ecological levels.

... In a novel approach to save seashore birds, two major non-governmental organisations, the International Council for Bird Preservation (ICBP) and the Royal Society for the Protection of Birds (RSPB) have entered into a legal agreement with the Government of Ghana. Similar agreements have been negotiated with Morocco and Sudan. The Non-Governmental Observers conduct research and training for local conservation officers with host governments providing administrative support and tax exemptions on imported equipment.

Chapter XV

HUMANE EDUCATION IN THE PUBLIC SCHOOLS

by Emily Stewart Leavitt and Bianca Beary

In 1884, George Thorndike Angell, founder of the American Humane Education Society, wrote:

There is not one child . . . that may not be taught in our public schools to feed the birds, and pat the horses, and enjoy making happy all harmless creatures it meets on the street, and so be doing acts of kindness . . . which will make it not only happier but better and more merciful in all relations of life. The schools, alone, as now conducted, will not do it: their prize is *greatness* rather than *goodness*; and the more you educate the intellect, neglecting the heart, the greater the capacity for evil.¹

In 1959, James T. Mehorter, Associate Professor of Psychology, Montclair State College, concurred:

It is now generally agreed by behavioral scientists that a cardinal criterion of good mental health is the individual's ability to love beyond himself with compassion, empathy, and concern for all sentient life. The emphasis of the school remains upon the promotion of behavior which is competitive, aggressive, and intellectualistic—behavior which tends to conduce toward mental ill-health.²

These two quotations represent a span of 75 years—three generations—yet each gave the same warning to an apparently unmoved public.

The words of the great Albert Schweitzer in *Memoirs of Childhood and Youth* (1949) come straight from the heart. When he was eight years old, a friend asked him to go out to kill birds with a slingshot. Dr. Schweitzer wrote:

This was a horrible proposal to me, but I dared not refuse for fear he would laugh at me. So we came to a tree which was still bare, and on which the birds were singing out gaily in the morning, without any fear of us. Then stooping over like an Indian on the hunt, my companion placed a pebble in the leather of his sling and stretched it. Obeying his peremptory glance I did the same, with frightful twinges of conscience, vowing firmly that I would shoot when he did. At that very moment the church bells began to sound, mingling with the song of the birds in the sunshine. It was the warning bell that came a half-hour before the main bell. For me it was a voice from heaven. I threw the sling down, scaring the birds away, so that they were safe from my companion's sling, and fled home. And ever afterwards when the bells of Holy Week ring out amidst the leafless trees in the sunshine I remember with moving gratitude how they rang into my heart at that time the commandment, 'Thou shalt not kill.'

Years later, reflecting on the incident, Albert Schweitzer realized that particular day marked a turning point in his life:

From that day on I have had the courage to free myself from all fear of men. Whenever my deepest convictions were involved I paid less attention than before to the opinions of others. I tried to escape from the dread of being laughed at by my comrades.

The great experience of my childhood and youth was the influence of the commandment that we should not kill or torture. All other experiences pale before it.

THE BEGINNINGS OF HUMANE EDUCATION IN AMERICA

As founder of the Massachusetts S.P.C.A. (1868), George Angell realized early that the Society needed prosecuting agents, branches in cities and towns, and, above all, a humane education program both for the protection of animals and for the effect of kindness on the human race. To start the humane education program, he persuaded his directors to publish a magazine called *Our Dumb Animals*, a monthly with the aim of educating and informing the people of the state about kindness to and protection of animals. Two hundred thousand copies of the first edition were distributed on June 2, 1868, by the police, gratuitously, to nearly every house in Boston. Inspired by the Boston example, police in other cities did the same; towns were reached through the local postmaster. The Massachusetts S.P.C.A. still publishes the magazine, now called *Animals*.³

While he was in England, George Angell's enthusiasm for humane education influenced the directors of the Royal S.P.C.A. to publish a similar monthly magazine called *The Animal World*. Angell received his first issue on October 3, 1869.

Angell's visits to England were mutually beneficial to the work of the Royal S.P.C.A. and to the work of the Massachusetts S.P.C.A. Through his perseverance and discussions with directors of the R.S.P.C.A., the Ladies Humane Education Committee was formed in 1870. Because of the Committee's work, the R.S.P.C.A. sent its appeal to 75,000 teachers. Shortly thereafter, 600 prizes were distributed annually to pupils in English schools who wrote the best compositions on kindness to animals.⁴ The 100 prizes awarded to pupils in London schools on May 28, 1870, were, according to Angell, the first prizes ever given for a composition on kindness to animals. The Ladies Humane Education Committee was the founder of the first Band of Mercy (December 1875), which was the forerunner and example for George Angell's American Bands of Mercy, formed on July 28, 1882. Shortly before this date, a committee on humane education, inspired by the English committee, was voted into the Massachusetts S.P.C.A. by the directors in May 1882. This committee on humane education was the forerunner of the American Humane Education Society, incorporated in 1889, which is associated with the Massachusetts S.P.C.A. Thus, Mr. Angell's persistent promotion of humane education with the directors of the R.S.P.C.A. had far-reaching effects.

As the following chart illustrates, the American Bands of Mercy movement grew rapidly in its first ten years:

1882	Parent organization founded
1883	93 Bands; about 10,000 members

1884	300 American Teachers Bands affiliated with the NEA January 608 Bands; over 70,000 members August 3,403 Bands; 234,000 members
1889	Over 7,000 Bands in the U. S., Territories, and British North America
1890	9,116 Bands
1891	11,290 Bands ⁵

Special note should be made of the 300 American Teachers Bands of Mercy. Angell rated his arrangement with the Hon. T. W. Bicknell, former President of the National Education Association (NEA) and publisher and editor of the "American Teacher," to form American Teachers Bands of Mercy within the NEA as his most important work in 1883.

Unfortunately, no humane organization exists within the NEA now. Instead, unless legislation mandates to the contrary, grade school and high school students may be encouraged to use live animals for demonstrations and experiments that cause distress and pain, both in the classroom and in science fair projects conducted in basements and bedrooms. Such unjustifiable abuse of power over animals can only stultify the development of moral character.

LEGISLATION PROHIBITING PAINFUL EXPERIMENTS BY UNTRAINED YOUTHS

In Great Britain, animal experiments that cause pain may be performed only by those whose scientific qualifications and education are sufficiently advanced to enable them to secure a license for the purpose. No children are granted licenses. Dr. Lawrence Abel testified before the House Interstate and Foreign Commerce Committee on September 30, 1965, concerning the British Act as follows:

Child psychiatrists are fully aware and most parents are even more fully aware of the sadistic phase through which nearly all children pass. Therefore, teachers must avoid pandering to morbid interests; for character is more important than knowledge. This is especially important today with the increase of juvenile delinquency.

It is now widely agreed that student experiments below the university level should never cause pain or distress to an animal or interfere with its health. Guidelines adopted in 1980 by the National Science Teachers Association, the National Association of Biology Teachers, and the American Institute of Biological Sciences⁶ all encourage demonstration and observation and the humane treatment of animals rather than invasive methods. One of the most prestigious science fairs, the Westinghouse Science Talent Search, excludes all projects involving live vertebrates, limiting studies to pure observation of wildlife or domestic animals. In 1985, the National Science Teachers Association seriously weakened its guidelines by allowing painful experiments to be conducted by high school students. Also, the National Association of Biology Teachers in 1984 added weakening amendments to their previously good 1980 guidelines.

HUMANE RULES FOR CANADIAN SCIENCE FAIRS

Regional Representatives of the Canada-Wide Science Fair approved regulations on May 23, 1975, that eliminate the use of vertebrate animals in science

fair projects unless those projects are purely observations of normal living patterns of animals in the wild or in zoos or of normal activities of pets or other domestic animals.

The decision followed several years' attempts to control cruel experiments in science fairs by establishing rules against those who caused harm to living vertebrates. Despite those rules, some students continued to exhibit projects that caused animal suffering. The Regional Representatives, therefore, drew up the following regulations that are in effect in Canada:

Regulation for Animal Experimentation in Science Fairs

1. Biological experimentation is essential for an understanding of living processes. Such studies should lead to a respect for all living things. Capable students, anxious to pursue a career in biological sciences, must receive the necessary encouragement and direction. It is important that all aspects of the project be within the comprehension and capabilities of the student undertaking the study.
2. If experiments are to be conducted on living subjects for Science Fair projects, then only lower orders of life may be used. Lower orders such as bacteria, fungi, protozoa and insects can reveal much basic biological information.
3. Vertebrate animals are not to be used in experiments for projects for Science Fairs, with the following exceptions:
 - a) Observations of normal living patterns of wild animals in the free living state, or in zoological parks, gardens or aquaria.
 - b) Observations of normal living patterns of pets, fish, or domestic animals.
4. No living vertebrate animal shall be displayed in exhibits in Science Fairs.
5. Cells such as red blood cells, other tissue cells, plasma or serum or anatomical specimens such as organs, tissues or skeletons purchased or acquired from biological supply houses or research facilities may be used in Science Fair projects.
6. Observational type studies, on only chicken egg embryos, may be used in Science Fair projects. If normal egg embryos are to be hatched, satisfactory humane considerations must be made for disposal of chicks. If such arrangements cannot be made, then the chicken embryos must be destroyed on the 19th day of incubation. No eggs capable of hatching may be exhibited in Science Fairs.
7. Experiments involving the human animal shall conform with these regulations as they apply to other animals. Normal physiological and behavioural studies may be carried out. Projects must be carefully selected so that neither physiological nor psychological harm can result from the study.
8. All experiments shall be carried out under the supervision of a competent science teacher. It shall be the responsibility of the quali-

fied science teacher to ensure the student has the necessary comprehension for the study to be undertaken. Whenever possible, specifically qualified experts in the field should be consulted.

LEGISLATION IN THE UNITED STATES

California, Florida, Illinois, Massachusetts, New Hampshire, New York, Maine, and Pennsylvania have passed legislation prohibiting painful or intrusive experimentation on live vertebrates by elementary and high school students.

The 1973 California law states:

Article 2. Humane Treatment of Animals

10401. In the public elementary and high schools or in public elementary and high school school-sponsored activities and classes held elsewhere than on school premises, live vertebrate animals shall not, as part of a scientific experiment or any purpose whatever:

(a) Be experimentally medicated or drugged in a manner to cause painful reactions or induce painful or lethal pathological conditions.

(b) Be injured through any other treatments, including, but not limited to, anesthetization or electric shock.

Live animals on the premises of a public elementary or high school shall be housed and cared for in a humane and safe manner.

The provisions of this section are not intended to prohibit or constrain vocational instruction in the normal practices of animal husbandry.

The New Hampshire law, passed in 1985, states, in part:

No school principal, administrator or teacher shall allow any live vertebrate animal to be used in any elementary or secondary school, or in any activity associated with such school, such as science fairs, as part of a scientific experiment or procedure in which the health of the animal is interfered with, or in which pain, suffering, or distress is caused. Such experiments and procedures include, but are not limited to, surgery, anesthetization, and the inducement by any means of painful, lethal, or pathological conditions through techniques that include, but are not limited to:

- (a) administration of drugs;
- (b) exposure to pathogens, ionizing radiation, carcinogens, or to toxic or hazardous substances;
- (c) deprivation; or
- (d) electric shock or other distressing stimuli.

The law also provides: "Science fair projects originating in other states that do not conform with the provisions of this section shall not be exhibited within the state."

Important in the passage of the bill was testimony by a young student who refused to do a painful experiment despite pressure from school authorities.

Florida passed a law in 1984 that incorporates many of the Canada-Wide Science Fair regulations. In addition to prohibiting invasive biological experimentation on living animals, it offers sound educational alternatives and includes sufficient penalties to deter violation (see Appendix).

Both Maine (Crim. Code Section 17-1055 (1), (3)) and Massachusetts (Crimes & Punishments Code Section 272-80G) extend the protection of their laws to any "activities associated with or sponsored by the school system" in order to prevent experimentation on living animals in science fairs. California (Education Code Section 51540), Florida, Maine, and New Hampshire have included provisions exempting vocational agriculture students from these laws. (Maine, Criminal Code Section 17-1055 (7), also exempts "Future Farmers of America, school-sponsored 4-H clubs and similar activities where improved nutrition and good and proper animal husbandry are the objective.") California licenses high schools under its animal care law, and a 1967 Michigan ruling requires high schools to obtain licenses under a similar statute. This places a heavy responsibility on the Health Department inspectors, since high school students should never conduct experiments that cause pain or distress to animals.

Dr. Heustis, former Michigan Commissioner of Health, arranged for distribution of the first edition of the AWI manual *Humane Biology Projects* to Michigan high schools. The publication contained suggestions designed to give young, would-be scientists a thorough grounding in biology without harming the health and well-being of animals. After some 60,000 copies had been distributed to teachers, a revised second edition was published in 1977. Additional projects to encourage the development of scientific thinking and rigorous observation are included on pages 136 to 189 of *The Endangered Species Handbook*,⁷ first published in 1983 as a sequel to *Humane Biology Projects*. Single free copies are available to teachers upon request. A revised edition was published in 1986 after the first printing of 10,000 copies was exhausted.

Some state boards of education have issued specific guidelines for animal care. For example, in February 1968, the Connecticut State Board of Education adopted the following policy, which is still operative:

1. Animals should always be maintained under the best possible conditions of health, comfort, and well-being.
2. No vertebrate animal should be subjected to any experiment or procedure which interferes with its normal health or causes it pain or distress.
3. Any experiment which involves the use of vertebrate animals should be carried out by or under the personal direction of a person trained and experienced in approved techniques for such experiments.

In localities where such policies do not exist, state anti-cruelty statutes can be successfully invoked to prevent mistreatment of animals by biology students. Warning of possible prosecution in the same way that warnings are used in other cruelty cases can, in most instances, bring a sense of proportion to teach-

ers and students.

The Illinois Junior Academy of Science issued an excellent statement on science fairs in 1986:

1. No intrusive techniques may be used. Included in intrusive techniques would be such things as surgery, injections, taking of blood, or giving of drugs and other chemical agents.
2. No radical changes may be made in the organism's normal environment.
3. For maze running and other learning or conditioning activities, food and/or water can not be withheld for over twenty-four hours. Electric shock can not be used as a stimulus in maze running.
4. The student and the sponsor have the responsibility to see that the animals are properly cared for in well ventilated, lighted, warm locations with adequate food, water, and sanitary conditions. Care must be taken to see that the organisms are properly cared for over week-ends and vacation periods and for the remainder of their natural life.
5. Chicken or other bird embryology projects must be terminated at or before ninety-six hours.
6. No project will be allowed that violates any of these rules. No person can perform any experiment for the student that would violate any of these rules.

In 1988 legislation was enacted in California to give pre-university students a choice of whether or not to participate not only in live animal experiments but in dissection of dead animals. California high school student Jenifer Graham testified that she was punished for refusing to dissect a frog in her biology class. National media coverage of her determined stand helped pass the new law. Several companies market computer, video, and slide programs effectively substituting for frog dissection instruction, so common in the nation's schools that it has seriously depleted frogs in the wild. Shipment of live frogs for teaching purposes has resulted in massive suffering and death of these animals even before they reach their destination.

In New Jersey, the American Civil Liberties Union filed a suit on behalf of Maggie McCool, who did not want to dissect animals as required in her high school class. A jury trial was about to begin when the School Board agreed to the Administrative Law Judge's ruling that a written statement be announced in student handbooks that students with sincere religious beliefs against dissection would not have to participate. The Board paid legal fees of \$12,500.

The California law reads, in part:

Chapter 2.3. Pupil's Rights to Refrain From the Harmful or Destructive Use of Animals

(a) 'Animal' means any living organism of the kingdom *animalia*, beings which typically differ from plants in capacity for spontaneous movement and rapid motor response to stimulation, by a usually greater mobility with some degree of voluntary locomotor ability, by

greater irritability commonly mediated through a more or less centralized nervous system, beings which are characterized by a requirement for complex organic nutrients including proteins or their constituents which are usually digested in an internal cavity before assimilation into the body proper, which are distinguished from typical plants by lack of chlorophyll, by an inability to perform photosynthesis, by cells that lack cellulose walls, and by the frequent presence of discrete complex sense organs.

(b) 'Alternative education project' includes, but is not limited to, the use of video tapes, models, films, books, and computers, which would provide an alternate avenue for obtaining the knowledge, information, or experience required by the course of study in question. 'Alternative education project' also includes 'alternative test.'

(c) 'Pupil' means a person under 18 years of age who is matriculated in a course of instruction in an educational institution within the scope of Section 32255.5. For the purpose of asserting the pupil's rights and receiving any notice or response pursuant to this chapter, 'pupil' also includes the parents of the matriculated minor.

32255.1. (a) Except as otherwise provided in Section 32255.6, any pupil with a moral objection to dissecting or otherwise harming or destroying animals, or any parts thereof, shall notify his or her teacher regarding this objection, upon notification by the school of his or her rights pursuant to Section 32255.4.

(b) If the pupil chooses to refrain from participation in an education project involving the harmful or destructive use of animals, and if the teacher believes that an adequate alternative education project is possible, then the teacher may work with the pupil to develop and agree upon an alternate education project for the purpose of providing the pupil an alternate avenue for obtaining the knowledge, information, or experience required by the course of study in question.

(c) The alternative education project shall require a comparable time and effort investment by the pupil. It shall not, as a means of penalizing the pupil, be more arduous than the original education project.

(d) The pupil shall not be discriminated against based upon his or her decision to exercise his or her rights pursuant to this chapter.

(e) Pupils choosing an alternative educational project shall pass all examinations of the respective course of study in order to receive credit for that course of study. However, if tests require the harmful or destructive use of animals, a pupil may, similarly, seek alternative tests pursuant to this chapter.

(f) A pupil's objection to participating in an educational project pursuant to this section shall be substantiated by a note from his or her parent or guardian.

32255.3. (a) A teacher's decision in determining if a pupil may pursue an alternative educational project or be excused from the project shall not be arbitrary or capricious.

(b) Nothing in this chapter shall prevent any pupil from pursuing the grievance procedures in existing law.

32255.4. Each teacher teaching a course that utilizes live or dead animals or animal parts shall also inform the pupils of their rights pursuant to this chapter.

32255.5. Notwithstanding any provision of law to the contrary, this chapter applies to all levels of instruction in all public schools operating programs from kindergarten through grades 1 to 12, inclusive.

32255.6. Classes and activities, conducted as part of a program in agricultural education that provide instruction on the care, management, and evaluation of domestic animals are exempt from the provisions of this chapter.

The September 1988 *News and Views* reported: "The NABT Executive Board met May 27-29 . . . [and] authorized the executive director to use the following statement to respond to queries: 'The National Association of Biology Teachers supports alternatives to dissection and vivisection where possible and pledges to provide direction and materials to prepare changes in the curricula of teachers to allow the infusion of new and important concepts in each of the subfields of the biological sciences.'"

HUMANE EDUCATION LAWS

Humane education laws in 18 states and the District of Columbia call for the teaching of kindness to animals. The Michigan law is typical:

School Code Section 380.1171. *Instruction in animals, birds; humane treatment, protection; economy of nature.* Time shall be devoted in the public schools within this state to teaching the pupils kindness and justice to, and humane treatment and protection of, animals and birds, and the important part they fulfill in the economy of nature.

A list of existing humane education laws follows:

Alabama	Educ. Code §16-40-4
California	Educ. Code §44806, 51540
District of Columbia	Health and Safety Code §6-101
Florida	Educ. Code §231.09
Illinois	School Code §122-27-13.1, 122-27-14, 122-27-15, 122-27-18
Louisiana	Educ. Code §17:266
Maine	Criminal Code §17.1055
Massachusetts	Crimes and Punishment Code §272-80G
Michigan	School Code §380.1171
New Jersey	Educ. Code §18A:35-4.1
New York	Educ. Code §809, 810
North Dakota	Educ. Code §15-38-11

Oregon	Educ. Code §336.067
Pennsylvania	Educ. Code §15-1511, 15-1514
South Dakota	Educ. Code §13-33-8
Tennessee	Educ. Code §49-1802
Washington	Educ. Code §28A.05.010
Wisconsin	State Organization Code §14.16, 40.46
Wyoming	Educ. Code §21-266

In 1985, the New York City Board of Education published the *Humane Education Resource Guide* for grades K-6 which is distributed free to New York City schoolteachers; and in 1989, the city's teachers' union, United Federation of Teachers, created a "Humane Education Council" which offers a free quarterly newsletter to New York City teachers and holds workshops, meetings and conferences. Those interested in the current work in New York may contact the Humane Education Committee, P.O. Box 445, Gracie Station, New York, New York, 10028, (212) 410-3095.

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1. Angell, G.T., *Autobiographical Sketches*, Appendix, pp. 7, 32-33.
 2. Mehorter, J.T., *How Cruelty Harms Children*, pp. 4, 9.
 3. 350 South Huntington Avenue, Boston, Massachusetts, 02130.
 4. Angell, G.T., *Autobiographical Sketches*, p. 33.
 5. *Ibid*, p. 78-98.
 6. These guidelines are endorsed by several groups, including the Institute of Laboratory Animal Resources Committee of the National Academy of Sciences, the Scientists' Group for Reform of Animal Experimentation, and the the American Veterinary Medical Association.
 7. Nilsson, G., *The Endangered Species Handbook*, Washington, D.C.: The Animal Welfare Institute (1986).

Chapter XVI

ANIMAL PROTECTIVE ORGANIZATIONS AND LAW ENFORCEMENT AGENCIES

by Emily Stewart Leavitt and Diane Halverson

The ability of humane societies, SPCAs, and their agents to intervene to protect abused animals depends on the authority invested in them by state law and on the charters of individual organizations. The powers of local societies to enforce the anti-cruelty laws in individual states may include one or more of the following: the authority (1) to prevent the perpetration of acts of cruelty and the use of force or summoning a bystander's aid to do so; (2) to take custody of a mistreated animal, with or without a warrant; (3) to make arrests, with or without a warrant; (4) to carry weapons; and (5) to be deputized as sheriffs or special police officers with all the power of regular police officers to enforce the anti-cruelty code.

TAKING MISTREATED ANIMALS INTO CUSTODY

To delineate the authority of its humane agents, the Maryland statute (Section 27-67) provides as follows:

Whenever it becomes necessary, in order to protect any animal from neglect or cruelty, any officer or authorized agent of an animal humane society or any police officer or other public officials charged with the protection of animals may take possession of it. If an animal is impounded, yarded or confined and continues without necessary food, water or proper attention, or is cruelly treated or neglected, any officer or authorized agent of an animal [humane] society or any police officer or other public officials charged with the protection of animals may enter into and upon any place in which the animal is impounded, yarded or confined and supply it with necessary food, water and attention so long as it there remains, or, if necessary, for the health of the animal, may remove the animal, and not be liable to any action for that entry.

The authority to remove an animal without a warrant enables an agent to promptly furnish the animal with the relief it may desperately need and ensure no further mistreatment or removal by its owner or custodian. Maryland's law requires notification to the owner or custodian of the animal concerning the taking and any administrative remedies available to him. If none are available, the owner or custodian may file a petition for return of the animal. If the owner or custodian fails to file a petition, or if the identity of the owner or custodian cannot be ascertained within 20 days, the animal is to be dealt with as a stray (Section 27-67). (The law does not permit entry into a private dwelling or the taking of a farm animal without the recommendation of a licensed veterinarian.)

Kansas also authorizes its agents, and certain other persons, to take cruelly treated animals into custody without a warrant, as follows:

Any public health officer, law enforcement officer or licensed veterinarian, or any officer or agent of any duly incorporated humane society, animal shelter or other appropriate facility, may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in K.S.A. 1976 Supp. 21-4310 and amendments thereto. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if it appears, as determined by an officer of such humane society or by such veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, for humane killing. (Section 21-4311)¹

REMOVAL OF ANIMALS FROM ABUSIVE SITUATIONS†

- #Alabama: Any authorized officer/employee of humane society can take charge of animal sick or disabled due to neglect/abuse and provide care until animal is in suitable condition to be returned. Written notice to owner that animal is taken. Expenses to be paid by owner when reclaiming; if not reclaimed within 10 days, humane society may sell animal. (§3-1-13)
- *California: Misdemeanor to torture or cruelly beat or kill any animal. Felony to maliciously maim, wound, torture, mutilate or kill an animal which is the property of another. The law also requires that animals subjected to cruelty be forfeited upon an owner's conviction. The convicted person is liable for all costs of impoundment. (California Penal Code §597)
- Colorado: Officer/agent of state bureau of animal protection can take charge of animal found abandoned/neglected/cruelly treated. Expenses paid by owner. Notice of seizure to owner required. (Title 35-42-108)
- Connecticut: With arrest for violation of cruelty laws, animal kept for 60 days for owner to reclaim. Expenses paid by owner. (Title 29, §108e)
- *Florida: Law enforcement/humane officer may take charge of animal found neglected/cruelly treated and petition County Judge for hearing within 10 days to determine if owner is fit for custody. Written notice to owner within 5 days of hearing. If judge allows owner custody, animal returned with owner paying expenses; if judge denies custody, animal auctioned (owner may not bid) or remanded to custody of humane society. (§828.073)

- Idaho: Officer may take charge of abandoned/neglected animal and care for it until it is redeemed by owner. Owner must pay expenses. (§18-2109)
- *Indiana: Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter may take custody of the animal involved. If owner requests, hearing can be held to determine if probable cause exists to believe a violation of anti-cruelty provisions occurred. If probable cause does not exist, animal must be returned to owner. Upon conviction of offense, owner forfeits all rights to possession, title, custody or care of the animal. (§35-46-3-6)
- *Kansas: Law enforcement/humane officer or veterinarian may take into custody animal which shows evidence of cruelty. Care for animal is paid by owner. If owner found guilty of cruelty and court feels animal may be in danger of further cruelty, animal to be turned over to humane society or licensed veterinarian for sale or disposition. (§21-4311)
- Louisiana: Officers of humane society may arrange for care of cruelly treated animal at a stable with appropriate veterinary treatment. Expenses for care are paid by owner. If not reclaimed in 5 days, society may sell animal at public auction. (§3:2431)
- Maine: Officer may apply to District or Superior Court to take possession of neglected/abused animal. If animal is to be returned to owner, owner must pay expenses for animal's care. (Maine Rev. Stat. Ann. Title 17 §1021)
- Maryland: To protect any animal from neglect or cruelty, or for the health of the animal, animal can be removed by agent of a humane society or a police officer, except animals in the possession of medical and scientific research facilities (recommendation needed from the Department of Health and Hygiene) and farm animals (prior recommendation of a licensed veterinarian needed). (Art. 27, §67)
- *Massachusetts: Upon conviction, and if determined by court not to be a fit owner, person can be ordered to surrender animal to humane society. (Chapter 272, §77)
- Michigan: With arrest for cruelty, arresting officer seizes all animals and fowl and brings them to pound. (§752.25)
- Minnesota: Duty of peace officers to take possession of animals

found cruelly treated and deliver them to proper officers of the county for custody and care. Expenses for cruelty investigation paid by county treasurer. If owner is guilty, he is fined that amount. (§343.12)

Missouri:

Law enforcement officer may seek warrant to enter property to care for or impound neglected/abused animals. (§578.018)

Nevada:

Officer can take possession of animal being treated cruelly and provide it with shelter and care. Written notice given to owner. A lien on animal's cost/care for 2 weeks. (§574.055)

New Hampshire:

Officer making arrest on cruelty charges may take into his possession animals found. Notice is given to owner, and all expenses are paid by owner. (§105:14)

North Carolina:

Animal cruelty investigator can file sworn complaint with magistrate seeking to provide suitable care and take custody of animal. Notice to owner, owner paying for animal's care. (§19A-46)

North Dakota:

Police officer or veterinarian may remove, shelter and care for animal found exposed to cold/inclement weather. Owner is notified. After 5 days, if not reclaimed and expenses paid, animal is sold. (§36-21.1-06)

Oklahoma:

Officer finding animal maltreated/abused to take custody. Charges to be lien on animal. (21 §1685)

*Oregon:

If there is probable cause to believe there is a violation of state anti-cruelty laws, and a search warrant is obtained, premises may be entered and animal impounded. Court may require that convicted person forfeit any right to the animal and repay reasonable costs to agency caring for animal. (§167.345, §167.350)

*Pennsylvania:

After receiving a search warrant, any officer of humane society may seize neglected/abused animal and provide it with care. The court may order owner to forfeit any right to animal after conviction. Owner responsible for expenses. (18 §5511)

Rhode Island:

Officer of Rhode Island S.P.C.A. may take charge of abandoned/neglected animal. With arrest for cruelty, animal to be taken and properly cared for. Owner must reclaim within 30 days, paying all expenses. (§4-1-22)

South Carolina:

Any officer of the law or of humane society may take

possession of abused animal. Expenses charged to owner before reclaiming. (§47-1-120, §47-1-140)

- *Texas: On a showing of probable cause to believe animal has been or is being cruelly treated, court may issue a warrant and animal control officer can receive warrant to seize animal, with hearing set within 10 days. If owner is guilty, court orders public sale of animal at auction. If owner is found innocent, animal is returned. (Health and Safety Code §821.021-025)
- Utah: Any law enforcement officer may take possession of abused/neglected animal to provide shelter and care. Owner is responsible for expenses. (§76-9-305)
- Vermont: Officer/agent of Vermont Humane Society may take possession of mistreated animal. Notice given to owner; expenses to be paid by owner. (§13-453)
- *Virginia: Humane officer/agent may take possession of abandoned/neglected/mistreated animal and petition court for hearing within 10 days. Written notice to owner. If court feels owner is unfit, animal is sold at public auction or destroyed. (§3.1-796.115)
- West Virginia: Humane officer to take custody of abandoned/neglected/abused animals. Notice to owner. Owner responsible for expenses. (§7-10-4)
- *Wisconsin: Any law enforcement officer may take charge of abandoned/neglected/abused animals. Owner is immediately notified. Owner responsible for expenses. If owner does not pay within 5 days, animal is to be treated as a stray. Court may order that the criminal violator may not own, possess or train any animal for a period specified by the court, but not to exceed 5 years. (§951.18)
- Wyoming: Officer/agent of Wyoming Livestock and Sanitary Board may take possession of animal cruelly treated. Costs to be covered by owner. (§11-29-109)

Alabama's statute was ruled unconstitutional in 1983 on due process grounds, *Humane Society v. Adams*, 439 So. 2d 150 (Ala. 1983).

* States where animal may be permanently removed from situation.

† Courtesy of the Humane Society of the United States and the Animal Legal Defense Fund.

ENFORCEMENT OF ANTI-CRUELTY LAWS

In all states the anti-cruelty laws can be enforced by state or local police officers or sheriffs' officers. To make clear that enforcement of state anti-cruelty laws is to be carried out by regular law enforcement officers as well as by humane societies, the relevant law in the State of Michigan provides:

Any society incorporated in this state for the purpose of preventing cruelty to animals may designate one or more persons in each county of the state to discover and prosecute all cases of the violation of this act; and the sheriff of such county may appoint each person so designated a deputy sheriff. The person shall be of good moral character, and when appointed shall possess all the powers of a sheriff of the county in the enforcement of the provisions of this act. The sheriff, however, shall not be responsible for any of the acts of such person or persons, but the society, if incorporated, and if not, then the officers and members of the society, on the request of which such person was appointed, shall be liable in the degree of a principal for the acts of an agent. [Section 752.27; see also Section 750.55, a similar provision.]

It shall also be the duty of all sheriffs, deputy sheriffs, constables, policemen, and public officers, to arrest and prosecute all persons of whose violation of the provisions of this act, they may have knowledge or reasonable notice, and for each neglect of such duty, the officer so offending shall be deemed guilty of a misdemeanor. [Section 752.28; see also Section 750.52, a similar provision.]

It shall be the duty of all prosecuting attorneys to represent and prosecute in behalf of the people within their respective counties all cases of offenses arising under the provisions of this act. [Section 752.29.]

Cruelty to animals is a criminal offense in all states; thus, any citizen who witnesses cruelty can call the police to stop it or, after the event, can swear out a warrant for criminal prosecution by a prosecuting officer. If a police officer refuses to respond to a cruelty complaint, a citizen can call the local prosecutor's office to act on the cruelty case and to report the lack of action by the police. If satisfaction is not obtained, a citizen can approach the mayor or head of the city council, or if he or she is a resident of the district in which the cruelty occurred, can contact the legislative district's representative in the State House to convince him or her that future acts of cruelty should be investigated. Not to be overlooked is the power of the press to report the deliberate failure of local authorities to fulfill their duties and its power to educate the public about animals' needs and legal rights.

Unless cases of mistreated, injured, neglected, or abandoned animals are reported, many animals will continue to suffer ill treatment without recourse to justice under existing laws. Some people hesitate to report abuses because they fear personal involvement. However, only when a case is brought to court is the complainant asked if he or she will consent to being identified, and never against his/her wishes. Most cases are resolved in favor of the animal by means of an investigation of the alleged cruelty by an animal protective agency, an explanation of how to correct it, and, if necessary, a warning of possible prosecution. Under these circumstances, most cases will not reach the courtroom.

To do your part to alleviate animal suffering, the first step is to become familiar with federal, state, county, and municipal laws on the legal rights of animals in their locality and the legal rights of local humane societies, police officers, and citizens to intervene in cases of neglect or cruelty.² To protect animals from cruelties not covered by existing laws, citizens can solicit the aid of local and national humane organizations and work toward the passage of legislation to address those problems.

Those who witness the mistreatment of animals should also be aware that a number of federal statutes can be invoked. Since most of these are administered by the U. S. Department of Agriculture, we have included a current list of their Regulatory Enforcement and Animal Care (REAC) regional offices in the Appendix. Violations of the Animal Welfare Act should be reported to them. Violations of the federal Twenty-Eight Hour Law (see Chapter II) and the Horse Protection Act (see Chapter VIII) should be reported to USDA's Federal Veterinarians in Charge, listed in the Appendix.

Enforcement of the federal Humane Slaughter Act is carried out by USDA's Food Safety Inspection Service. Each slaughtering establishment is overseen by an Inspector in Charge (IIC) placed by USDA in the plants for compliance with laws on sanitation, health, residues, and other matters. In addition, recourse to state law enforcement is available. State Departments of Agriculture usually administer the humane regulations of new statutes, particularly with respect to humane slaughter and the licensing of animal dealers and pet shops. The state veterinarian in each state capital is charged with investigating complaints of violations of laws within his or her jurisdiction.

The protection of animals from needless suffering is no longer a "special" matter dealt with exclusively by private groups. All responsible citizens should be prepared to object to the abuse of animals whenever and wherever it occurs and, if such objections do not succeed in stopping it, to follow through to make certain the abuse is corrected by the authorities—local, state, or federal.

1. In addition, the Kansas statute contains the following provision: "If a person is adjudicated guilty of a crime of cruelty to animals . . . and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition." Florida has a similar provision (Section 828.073 (4) (6)).
2. Minnesota statute 343.22 is presented in the Appendix as an example of one state's procedure by which a private citizen can request an investigation of a cruelty case through the courts.

ANTI-CRUELTY LAWS PROHIBITING INHUMANE TRANSPORT OF ANIMALS: PENALTIES

<u>Government</u>	<u>Transport Law Section No.</u>	<u>Penalties for Violation</u>	<u>Penalty Section Nos.</u>
Arkansas	Criminal Code 41-2955	Up to \$1,000 and/or up to 1 year	41-113; 41-901; 41-1101
California	Penal Code 597a	up to \$500 and/or up to 6 months	Penal Code 19
Connecticut	53-247	up to \$250 and/or up to 1 year	53-247
District of Columbia	22-802	up to \$250 and/or up to 1 year	22-801
Florida	828.12	\$1,000 and/or up to 1 year	775.082; 828.12
Hawaii	Penal Code 37-311-1109	up to \$1,000	Penal Code 37-706-640
Idaho	18-2103	up to \$300 and/or up to 6 months	18-113
Massachusetts	272-77	up to \$500 and/or up to 1 year	272-77
Michigan	750.50	up to \$100 and/or up to 90 days	750.504
Minnesota	343.24	up to \$500 and/or up to 90 days	609.03
Mississippi	97-41-5	from \$10 to \$100 and/or from 10 to 100 days	97-41-13
Missouri	578.060	up to \$1,000 and/or up to 1 year	560.016
Montana	45-8-211	up to \$500 and/or up to 6 months	45-8-211
Nevada	574.190	up to \$1,000 and/or up to 6 months*	193.150
New Hampshire	644:8	up to \$1,000 and/or up to 1 year	651:2
New Jersey	4:22-18 4:22-26	up to \$250 and/or up to 6 months up to \$250	4:22-17 4:22-26
New York	Agric. & Markets Code 359	up to \$500 and/or up to 1 year	Agric. & Markets Code 359

* or a fixed period of work for the benefit of the community.

<u>Government</u>	<u>Transport Law Section No.</u>	<u>Penalties for Violation</u>	<u>Penalty Section Nos.</u>
North Carolina	14-363	up to \$500 and/or up to 6 months	14-363
North Dakota	36-21.1-03	up to \$1,000 and/or up to 1 year	36-21.1-11; 12.1-32-01
Ohio	959.13	up to \$750 and/or up to 90 days	959.99; 2929.21
Oklahoma	21-1688	up to \$500 and/or up to 1 year in county jail	21.10
Oregon	167.860	up to \$1,000 and/or up to 6 months	161.615; 161.635
Pennsylvania	18-5511	up to \$300 and/or up to 90 days	18-1105; 18-1101; 18-106
Rhode Island	4-1-3	from \$50 to \$500 and/or up to 11 months	4-1-2
South Carolina	47-1-50	up to \$100 or up to 30 days	47-1-40
Tennessee	39-408	up to \$1,000 and/or up to 1 year	39-105
Texas	Penal Code 42.11	up to \$2,000 and/or up to 1 year	Penal Code 12.21
Utah	76-9-301	up to \$299 and/or up to 6 months	76-3-201; 76-3-301; 76-3-204
Vermont	13-403	up to \$200 and/or up to 1 year	13-403
Virginia	18.2-392	up to \$1,000 and/or up to 12 months	18.2-11
Washington	16.52.080	up to \$150 plus costs of prosecution and/or up to 60 days	16.52.165
West Virginia	61-8-19	from \$5 to \$100 to which may be added imprisonment up to 6 months	61-8-19
Wisconsin	948.05	forfeiture up to \$200; if intentional or negli- gent, up to \$10,000 and/or up to 9 months**	948.18; 939.51; 939.52
Wyoming	11-34-102	from \$10 to \$100 and/ or up to 1 year	11-34-102
Puerto Rico	5-1652	up to \$300 and/or up to 6 months	5-1659

** In addition, the district attorney may apply for a temporary or permanent injunction to restrain violators.

TIME LIMIT IN STATE LAWS FOR TRANSPORTING ANIMALS WITHOUT FOOD, WATER AND REST

VERMONT, Title 13, Section 461. *Transportation by railroad; rest and feeding.*

(a) A railroad company in the transportation of animals shall not permit them to be confined in cars more than twenty-eight consecutive hours, including the time they have been confined on connecting roads, without unloading them for rest, water and feeding, for at least five consecutive hours, unless prevented from so unloading by storm or other accidental causes. Animals so unloaded shall be properly fed, watered and sheltered during each rest by the owner or person having the custody thereof, or, in case of his default, by the railroad company transporting the same, at his expense. In such case, such company shall have a lien upon such animals for food, care and custody furnished, and shall not be liable for the detention authorized by this section.

(b) A company, owner or custodian of such animals who does not comply with the provisions of subsection (a) of this section shall be fined not more than \$200.00 nor less than \$50.00. The foregoing provisions shall not apply to animals carried in cars in which they can and do have proper food, water, space and opportunity for rest.

13-462. *Transportation by truck; rest and feeding.* No person shall confine or permit to be confined any animals being transported by truck by him or under his orders or control for more than eighteen consecutive hours without their removal from the truck for a rest period of not less than four hours and providing the animals with feed and water during this period except when reasonable space for rest, food and water are provided in the vehicle. Reasonable space for animals and protection from the weather shall be provided in the trucks at all times. A person who violates a provision of this section shall be fined not more than \$100 for each offense.

13-463. *Care and treatment.* Every person who loads, unloads, cares for, or transports livestock shall load, unload, transport and at all times handle them in a careful and humane manner to avoid loss from bruising, other injury, suffering, or death of the livestock. Any person who fails so to load, unload, transport or handle livestock shall be guilty of cruelty to animals as defined in § 403(a) of this title. [The penalty for violation of § 13-463 is a fine of up to \$200 and/or imprisonment up to one year.]

FLORIDA, Chapter 828, Section 14. *Water and food for stock on trains, vessels, etc.*

(1) No person or corporation, or agent of either, engaged in transporting livestock on railway trains or on steam or sailing vessels, or otherwise, shall detain such stock for a longer continuous period than 28 hours after the same are so placed without supplying the same with necessary food, water, and attention, or shall permit them to be crowded so as to overlie, crush, wound, or kill each other; and any person or agent as aforesaid violating the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in § 775.082 or § 775.083, and any corporation violating the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in § 775.083.

(2) Nothing in this section shall apply to owners, officers, or crew of water craft detained on the navigable waters of this state by storms and prevented by bad weather from reaching port.

[Section 775.082 limits punishment to a fine, forfeiture or civil penalty. Punishment under § 775.083 is \$500.00.]

828.15. *Sections 828.12, 828.13, 828.14 Not to apply to poultry shipped.* Nothing in §§828.12, 828.13, and 828.14 shall be construed to apply to poultry shipped on steamboats or other craft.

Several states have laws similar to Vermont's with variations on the time limit for transporting animals without food, water and rest; on the number of consecutive hours of rest required during the period when they are unloaded; in regard to which animals are specified (whether "animals" generally or "live-stock" only); and in regard to penalties for violating these transport laws. The laws in the following charts protect "animals" in California, Connecticut, the District of Columbia, Illinois, Maine, Massachusetts, Michigan, New York and South Carolina. They protect "livestock" or certain species commonly referred to as livestock in Florida, Ohio, Minnesota and New Mexico. The Washington statute protects "stock and animals."

Time Limit in State Laws for Transporting Animals Without Food, Water and Rest

<u>Vehicle</u>	<u>Time Limit</u>	<u>Hours of Rest</u>	<u>Penalty for Violation</u>
<i>Truck</i> Vermont (13-462*)	18 hrs.	4	up to \$100 (13-462)*
<i>Railroad</i> District of Columbia (22-803)	24 hrs.	5	from \$100 to \$500 (22-803)
<i>All Transportation Companies</i> Florida† (828.14)	28 hrs.	—	up to \$500 (775.083) and/or up to 60 days (775.082)
Illinois** (8-707)		—	violation is a petty offense (8-716); up to \$500 (38-1005-9-1)
Virginia** (3.1-796.43)		—	up to \$1,000 and/or up to 12 months (18.2-11)
<i>Railroad</i> Connecticut (53-252)	28 hrs.	5	up to \$500 (53-252)
Massachusetts (272-81)		5	from \$100 to \$500 (272-81)
Rhode Island (4-1-17)		5	from \$100 to \$500 (4-1-17)
Vermont (13-461)		5	from \$50 to \$200 (13-461)

<u>Vehicle</u>	<u>Time Limit</u>	<u>Hours of Rest</u>	<u>Penalty for Violation</u>
<i>Truck</i> California (Food & Agric. Code 16908)	28-36 hrs.	5	from \$50 to \$500 and/or from 10 days to 6 months (Food & Agric. Code 16421)
<i>Railroad</i> Nevada (705.090)	28-36 hrs.	5	violation is misdemeanor (705.110); up to \$500 and/or up to 6 months (193.150)
Ohio † (959.13)		—	violation is 2nd degree misde- meanor (959.99); up to \$750 and/or up to 90 days (2929.21)
<i>All Transportation Companies</i> Maine (17-1172, 1173)	28-36 hrs.	—	from \$50 to \$500 (17-1172, 1173)
Minnesota (343.24)		5	up to \$700 and/or up to 90 days (609.03)
New York (Agric. & Markets Code 359)		5	up to \$500 and/or up to 1 year (Agric. & Markets Code 359)
<i>Truck</i> New Mexico (77-9-63)	36 hrs.	5	violation is petty misdemeanor (77-2-22); up to \$500 and/or up to 6 months (30-19-1)
<i>Railroad</i> California (Food & Agric. Code 16905)	36 hrs.	5	from \$100 to \$1,000 and/or from 10 days to 6 months (Food & Agric. Code 16421)
Michigan (750-51)		5	from \$100 to \$500 (750.51)
South Carolina (47-1-90)		5	from \$50 to \$500 (47-1-110)
<i>Railroad</i> Washington (81.56.120)	48 hrs.	2	up to \$100 (81.56.120)

* Figures in parentheses refer to the title, chapter or article and section number of the transportation law or penalty provision in the state law code.

† Florida and Ohio require "food, water and attention."

** Illinois and Virginia also require exercise necessary for the particular animal being transported.

ALABAMA

Article 5

HANDLING OF LIVESTOCK IN MARKETS AND IN TRANSIT

§ 2-15-110. *Inhumane handling or handling in violation of article prohibited.*

In order to prevent injury to animals in livestock markets and in transit and to prevent unnecessary abuse and cruelty to animals with resultant loss of profit from the slaughter and sale of such animals, it shall be unlawful in this state to handle or transport such animals in any manner not consistent with humane methods of treatment to such extent as is reasonably possible or in a manner not in compliance with or in violation of the requirements of this article.

§ 2-15-111. *Conveyances used to transport livestock to proceed to destination without delay; notice to owner of livestock of breakdown.*

(a) All trucks, vans or other conveyances used for the transportation of cattle, sheep, swine or other animals along public roads, streets or highways of Alabama shall, prior to the loading of such animals, be prepared to proceed to their destination without delay and, upon loading, shall proceed by the most direct and usually traveled route.

(b) In the event of a breakdown that would cause a delay of the arrival of the livestock at their destination for more than one hour, the owner of such livestock shall be notified as soon as possible of such breakdown.

§ 2-15-112. *Construction of conveyances used for transporting of livestock.*

All such trucks, vans or other conveyances used for the transporting of the animals described in this article shall be so constructed that the roof of any deck of the conveyance will not touch the highest point of the back of any animal loaded thereon. Any such conveyance which is propelled or drawn by the use of diesel fuel shall have the exhaust so placed that the fumes will not blow directly into the area in which the animals are loaded either when the conveyance is in motion or when it is motionless.

§ 2-15-113. *Use of sticks, whips, chains, etc., in livestock markets; promulgation of rules and regulations by commissioner as to treatment of livestock in markets; inspections of markets for enforcement of section.*

In addition to the authority granted to the commissioner of the department of agriculture and industries pursuant to division 1 of article 4 of this chapter, the said commissioner, with the approval of the state board of agriculture and industries, shall be authorized to promulgate reasonable rules and regulations for the humane treatment of animals held in livestock markets and while being sold or offered for sale in such markets, including the number, kind and size of animals that may be held in pens or areas of stipulated dimensions, regulations for the feeding and care of such animals and for the maintenance of sanitary conditions of the premises.

Sticks, canes or whips shall not be used in such a manner so as to injure an animal. The use of chains, spikes, clubs or other injurious devices are hereby prohibited except under extreme circumstances where it is necessary to prevent

injury to persons or other animals; and flappers, other noisemaking devices, electric prods of not more than six volts in strength and other contrivances which have been found to be equally effective shall be used wherever possible for such purposes.

The commissioner of agriculture and industries shall provide for the regular inspection of such livestock markets for the purpose of enforcing the requirements of this section.

§ 2-15-114. *Penalties for violations of provisions of article, rules or regulations promulgated thereunder, etc.; liability of managers, etc., of transportation agencies or livestock markets permitting violations of article by employees, agents, etc.*

(a) Any person who shall violate any of the provisions or requirements of this article, or who fails to perform any duty imposed by the provisions of this article or who violates any rule or regulation duly promulgated under this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$10.00 nor more than \$100.00 and, within the discretion of the court, may also be imprisoned for not more than six months.

(b) The manager, executive officer, owner or other person in charge of any transportation agency or livestock market who knowingly allows any employee, agent or servant to violate any of the provisions or requirements of this article or who knows that any employee, agent or servant is violating any provisions of this article and who does not take immediate steps to correct such violations shall be guilty of a misdemeanor and upon conviction shall be punished as provided in subsection (a) of this section.

STATE ANTI-CRUELTY LAWS PROHIBITING INHUMANE TRANSPORTATION OR HANDLING OF POULTRY

CONNECTICUT

53-249. *Cruelty to poultry.* Any crate or other container used for the purpose of transporting, shipping or holding for sale any live poultry shall be in a sanitary condition and shall be constructed so as to provide sufficient ventilation and warmth, and such poultry, while in such container, shall receive such reasonable care as may be required to prevent unnecessary suffering. Any person who violates any provision of this section shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both.

PENNSYLVANIA

18-5511(e). *Transporting animals in a cruel manner.* A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhuman manner . . . For the purposes of this section, it shall not be deemed cruel or inhuman to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

RHODE ISLAND

4-1-7. *Live poultry containers.* Any crate or other container used for the purpose of transporting, shipping, or holding for sale any live poultry shall be in a sanitary condition and shall be constructed so as to provide sufficient ventilation and warmth and such poultry, while in such container, shall receive such reasonable care as may be required to prevent unnecessary suffering. Any person violating any provision of this section shall, for every such offense be imprisoned not exceeding fifteen days or be fined not exceeding one hundred dollars, or be both imprisoned and fined as aforesaid.

TEXAS

Civil Code Article 181. *Cruelty to fowls.* Whoever receives live fowls, poultry or other birds for transportation or to be confined on wagons or stands, or by the owners of grocery stores, commission houses or other market houses, or by other persons when to be closely confined, shall place same immediately in coops, crates or cages made of open slats or wire on at least three sides and of such height that the fowls can stand upright without touching the top, have troughs or other receptacle easy of access at all times by the birds confined therein, and so placed that their contents shall not be defiled by them, in which troughs or other receptacles clean water and suitable food shall be constantly kept; keep such coops, crates or cages in a clean and wholesome condition; place only such numbers in each coop, crate or cage as can stand without crowding one another, but have room to move around; not expose same to undue heat or cold, and remove immediately all injured, diseased or dead fowls or other birds.

VERMONT

13-409. *Live poultry containers.* Any crate or other container used for the purpose of transporting, shipping, or holding for sale any live poultry shall be in a sanitary condition and shall be constructed so as to provide sufficient ventilation and warmth and any poultry while in such container shall receive reasonable care as may be required to prevent unnecessary suffering. Any person violating this section shall for every offense be fined not more than \$50.00.

WISCONSIN

134.52. *Shipment of chickens.* (1) It shall be unlawful for any person, his agent or servant, to ship, or for any common carrier or the agent or servant of such common carrier to allow, aid, or abet in the shipment of chickens confined in coops unless such coops are at least 13 inches in height on the inside and are covered at the top by wires or slats not more than one inch apart or by wire screening with meshes of not more than one inch. (2) It shall be unlawful for any person, his agent or servant or for any common carrier or the agent or servant of such common carrier to so crowd or congest or to allow, aid or abet in the crowding or congesting of chickens within any coop in any shipment as to impair or endanger the well-being of such chickens during the course of transportation thereof; and any such crowding or congesting shall be deemed cruelty. (3) Whenever any humane officer or any peace officer in this state ascertains or observes any shipment of chickens in a crowded or congested condition, such officer may take or cause to be taken such steps as to give immediate relief.

(4) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$10 nor more than \$50, or by imprisonment in the county jail not less than 10 days nor more than 30 days. [Code of "Miscellaneous Trade Regulations"]

FEDERAL HUMANE SLAUGHTER ACT OF AUGUST 27, 1958

as amended 1978

AN ACT

To establish the use of humane methods of slaughter of livestock as a policy of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.

**Humane
methods of
slaughter.**

SEC. 2. No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane. Either of the following two methods of slaughtering and handling are hereby found to be humane:

(a) in the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or

(b) by slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument *and handling in connection with such slaughtering.*

SEC. 4. In furtherance of the policy expressed herein the Secretary is authorized and directed—

**Authority of
Secretary of
Agriculture.**

(a) to conduct, assist, and foster research, investigation, and experimentation to develop and determine methods of slaughter and the handling of livestock in connection with slaughter which are practicable with reference to the speed and scope of slaughtering operations and humane with reference to other existing methods and then current scientific knowledge; and

(b) on or before March 1, 1959, and at such times thereafter as he deems advisable, to designate methods of slaughter and of handling in connection with slaughter which, with respect to each species of livestock, conform to the policy stated herein. If he deems it more effective, the Secretary may make any such designation by designating methods which are not in conformity with such policy. Designations by the Secretary subsequent to March 1, 1959, shall become effective 180 days after their publication in the *Federal Register*.

SEC. 6. Nothing in this Act shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this Act, in order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this Act. For the purposes of this section the term "ritual slaughter" means slaughter in accordance with section 2 (b).

**Religious
freedom.**

**"Ritual
slaughter".**

FEDERAL MEAT INSPECTION ACT

Title I—Inspection Requirements; Adulteration and Misbranding

as amended 1978

Sec. 3. (a) That hereafter, for the purpose of preventing the use in commerce, as hereinafter provided, of meat and meat food products which are adulterated, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, sheep, swine, goats, horses, mules, and other equines before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering, or similar establishment, in which they are to be slaughtered and the meat and meat food products thereof are to be used in commerce; and all cattle, sheep, swine, goats, horses, mules, and other equines found on such inspection to show symptoms of disease shall

be set apart and slaughtered separately from all other cattle, sheep, swine, goats, horses, mules or other equines, and when so slaughtered the carcasses of said cattle, sheep, swine, goats, horses, mules, or other equines shall be subject to a careful examination and inspection, all as provided by the rules and regulations to be prescribed by the Secretary, as herein provided for.

(b) *For the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection or cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906), until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.*

Sec. 10. No person, firm, or corporation shall, with respect to any cattle, sheep, swine, goats, horses, mules, or other equines or any carcasses, parts of carcasses, meat or meat food products of any such animals—

(a) slaughter any such animals or prepare any such articles which are capable of use as human food at any establishment preparing any such articles for commerce, except in compliance with the requirements of this Act;

(b) *slaughter or handle in connection with slaughter any such animals in any manner not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906);*

(c) sell, transport, offer for sale or transportation or receive for transportation in commerce, (1) any such articles which (A) are capable of use as human food and (B) are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or (2) any articles required to be inspected under this title unless they have been so inspected and passed;

(d) do, with respect to any such articles which are capable of use as human food, any act while they are being transported in commerce or held for sale after such transportation, which is intended to cause or has the effect of causing such articles to be adulterated or misbranded.

Sec. 20. (a) No carcasses, parts of carcasses, meat or meat food products of cattle, sheep, swine, goats, horses, mules, or other equines which are capable of use as human food, shall be imported into the United States if such articles are adulterated or misbranded and unless they comply with all the inspection, building construction standards, and all other provisions of this Act and regulations issued thereunder applicable to such articles in commerce within the United States. *No such carcasses, parts of carcasses, meat or meat food products shall be imported into the United States unless the livestock from which they were produced was slaughtered and handled in connection with slaughter in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906).* All such imported articles shall, upon entry into the United States, be deemed and treated as domestic articles subject to the other provisions of this Act and the Federal Food, Drug, and Cosmetic Act; *Provided*, That they shall be marked and labeled as required by such regulations for imported articles: *Provided further*, That nothing in this sec-

tion shall apply to any individual who purchases meat or meat products, outside the United States for his own consumption except that the total amount of such meat or meat products shall not exceed fifty pounds.

SUMMARY OF FOREIGN ANTI-CRUELTY LAWS AND HUMANE SLAUGHTER LAWS

According to information compiled by the World Society for the Protection of Animals, the following foreign states have both general anti-cruelty laws and humane slaughter laws: Argentina, Australia, Austria, Belgium, Canada, Denmark, Eire, Finland, France, Federal Republic of Germany, Gibraltar, Greece, Hong Kong, Italy, Japan, Kenya, Luxembourg, Malta, Netherlands, New Zealand (humane slaughter laws are limited), Norway, Rhodesia, Sweden, South Africa, Spain (but the laws are inadequately enforced), Switzerland, Tanzania, Tasmania, the United Kingdom, and the U.S.S.R.

The following have general anti-cruelty laws but no humane slaughter law: Barbados, Bechuanaland, Brazil, Ceylon, Cyprus, Gambia, Hungary, India, Iran, Israel, Jamaica, Libya, Malaysia, Nigeria, Penang, Philippines, Portugal, Seychelles, Singapore, Turkey, Uganda and Venezuela.

Colombia, in 1990, passed a National Statute for the Protection of Animals.

BRITISH TRANSIT OF ANIMALS ORDER OF 1973

As Amended in 1988

1. This Order may be cited as the Transit of Animals (Amendment) Order 1988 and shall come into force on 18th May 1988.

2. For the purposes of the Diseases of Animals Act 1950 in its application to this order—

(a) the definition of the expression "animals" contained in section 84(1) thereof is hereby extended so as to comprise all mammals, except man, and any kind of four-footed beast which is not a mammal, and all fish, reptiles, crustaceans and other cold-blooded creatures of any species; and

(b) the definition of the expression "poultry" contained in section 84(2) thereof is hereby extended so as to comprise birds of any species.

Protection of animals from injury and unnecessary suffering during loading, unloading and carriage

5.(1) No person shall load any animal into or unload any animal out of a vessel, aircraft or vehicle, or cause or permit any animal to be so loaded or unloaded, in

a way which is likely to cause injury or unnecessary suffering to the said animal; and in the application of this paragraph to loading, the duty imposed on a person to safeguard an animal from injury or unnecessary suffering shall extend to injury or suffering which is likely to arise during carriage, or at any time during which the animal is in the vessel, aircraft or vehicle.

(2) No person shall carry any animal by sea, air, road or rail, or cause or permit any animal to be so carried, in a way which is likely to cause injury or unnecessary suffering to the said animal.

(3) Without prejudice to the generality of the foregoing provisions of this article, it shall be the duty of any person in charge of an animal which is being loaded into, unloaded out of or carried in a vessel, aircraft or vehicle, to ensure that such animal is—

(a) protected from inadequately constructed or insecure fittings in that part of the vessel, aircraft or vehicle, or in the receptacle, in which the animal is being carried;

(b) not subjected to severe jolts or shaking;

(c) protected from the action of the weather and, if appropriate, the sea;

(d) provided with an adequate supply of fresh air (whether the vessel, aircraft or vehicle is stationary or in motion);

(e) protected from exposure to undue fluctuations in temperature, humidity or air pressure;

(f) protected from undue exposure to noise or vibration; and

(g) prevented from escaping from or falling out of the vessel, aircraft or vehicle.

(4) The duty imposed on a person by paragraph (3) above shall extend to any period during which the animal in respect of which a duty has been imposed is waiting to be loaded into or unloaded out of a vessel, aircraft or vehicle.

(4A) No person shall carry any deer with antlers in velvet by sea, air, road or rail, or cause or permit any such deer to be so carried, unless special precautions are taken to protect such deer from harm during their carriage.

(5) Where an inspector has reason to believe that an animal loaded in a vessel, aircraft or vehicle is likely, from whatever cause, to be caused injury or unnecessary suffering if carried therein, he may, by notice in writing served on the master of the vessel, the commander of the aircraft or the carrier or his agent, or (in the case of carriage by road or rail) on the person for the time being having charge of the said animal, prohibit the carriage thereof, and require the animal to be unloaded forthwith out of the vessel, aircraft or vehicle, and removed to such place as may be specified in the notice.

(6) Animals shall not be carried by sea or air if, in the judgement of the master or, as the case may be, the commander, there are grounds for believing that, due to adverse weather conditions, the voyage or flight will be attended by serious risk of injury to, suffering by, or loss of life among the said animals.

5A.(1) No person shall carry any cold-blooded animals by sea, air, road or rail, or cause or permit any such animals to be so carried, unless they are carried—

(a) in such containers;

(b) under such conditions (with regard in particular to space, ventilation and temperature); and

(c) with such supplies of water and oxygen as are appropriate for their species.

Feeding, watering and general care of animals during carriage

6.(1) It shall be the duty of the owner or charterer of a vessel and of the operator of an aircraft in which animals are being carried by sea or air, and of the carrier or other person in charge of animals being carried by road and rail, to ensure that—

(a) such animals are adequately fed and watered at suitable intervals during carriage, including for this purpose any period during which the said animals are waiting to be loaded or unloaded;

(b) where necessary, adequate supplies of food and water appropriate to the species of animals being carried are available in the vessel, aircraft or vehicle;

(c) an attendant is available during carriage who shall be responsible for carrying out feeding and watering as required by sub-paragraph (a) of this paragraph, and for the general care of the animals in accordance with the provisions of this order;

(d) where necessary, suitable access is readily available to the said animals for the purpose of feeding and watering, and for otherwise attending to them as required by this order, and that, if required, an adequate means of artificial lighting is provided; and

(e) such animals are carried to their destination as soon as possible and delays are minimised.

(2) The provisions of sub-paragraphs (c) and (d) of the preceding paragraph shall not apply where animals being carried by air are accommodated in the hold of the aircraft; but in any case, it shall be the duty of the operator to ensure that such animals are adequately fed and watered and otherwise attended to when the aircraft in which they are being carried is on the ground.

(3) It shall be the duty of the owner or charterer of a vessel and of the operator of an aircraft in which any horses, rabbits, dogs or cats are being carried by sea or air in the course of international transport, and of the carrier or other person in charge of any such animals being carried by road or rail in the course of international transport, to ensure that—

(a) in the case of horses, they are not left for more than 24 hours without being fed and watered save that such period may be extended if their international transport can be completed within a reasonable period;

(b) in the case of rabbits, suitable food and, if necessary, water, is available in adequate quantities, except where their international transport lasts for less than 12 hours; and

(c) in the case of dogs and cats—

(i) they are fed at intervals of not more than 24 hours,

(ii) they are given water at intervals of not more than 12 hours, and

(iii) clear written instructions are given to those persons responsible for feeding and watering them.

(4) The provisions of paragraph (3)(c) above shall not apply in the case of a dog or cat which is being accompanied by its owner or by a person representing its owner.

(5) In paragraph (3) above "international transport" means any movement of horses, rabbits, dogs or cats (as the case may be) which involves or is intended to involve, the crossing of a frontier.

Unfit animals and animals likely to give birth during carriage

7.(1) Subject to the following provisions of this Article, where the owner of an animal or his agent, or the consignor, carrier or other person in charge thereof, has reason to believe that the animal is unfit, or that it is likely to give birth during carriage, he shall not permit the said animal to be loaded into a vessel, aircraft or vehicle, or to be carried therein.

(2) Where an inspector is of the opinion that an animal intended to be carried—

(a) cannot, by reason of unfitness, be so carried without unnecessary suffering, or

(b) is likely to give birth while being so carried, he may take such steps as appear to him to be necessary to mark or otherwise identify the said animal, and may require the owner or other person in charge thereof to detain the animal at a suitable place pending its examination by a veterinary inspector, and to unload it out of any vessel, aircraft or vehicle for the purpose.

(3) Where a veterinary inspector is satisfied that the condition of an animal is such as would bring it within sub-paragraph (a) or sub-paragraph (b) of the preceding paragraph, he may serve on the owner or other person in charge of the said animal a notice in writing—

(a) prohibiting absolutely or for such a period as may be specified in the notice the carriage or, as the case may be, the further carriage of the animal; or

(b) permitting the carriage, or, as the case may be, the further carriage of the animal subject to such conditions as may be specified in the notice.

(4) The person in charge of an animal which is to be carried by sea, air, road or rail, shall render such assistance as may be necessary to enable an inspector or veterinary inspector to examine the said animal for the purposes of this Article, and shall comply with all reasonable requirements of an inspector or veterinary inspector to examine the said animal for the purposes of this Article, and shall comply with all reasonable requirements of an inspector or veterinary inspector in connection therewith, and with the provisions of a notice served under the preceding paragraph.

(5) The reasonable expenses arising from the exercise of the powers conferred on an inspector or veterinary inspector by the foregoing provisions of this Article shall be recoverable on demand as a civil debt by the Minister or, as the case may be, the local authority from the owner of the animal or his agent, or from the consignor thereof, or from any person on whom a notice under paragraph (3) of this Article has been served.

Carriage of animals in receptacles

8.(1) It shall be the duty of the consignor, carrier or other person for the time being in charge of an animal which is to be carried in a receptacle to ensure that the receptacle—

(a) is soundly constructed in a manner which is not likely to cause injury to animals carried in it;

(b) permits the animal contained in it to be inspected;

(c) is escape-proof;

(d) is easy to keep clean;

- (e) is maintained in a good state of repair;
- (f) is suitable for the species of animal to be carried in it;
- (g) is not overcrowded;
- (h) has securely attached to it a label or similar form of notice clearly indicating that the receptacle contains live animals and stating the species of those animals; and
- (i) bears a sign indicating its upright position.

(2) It shall be the duty of the carrier or other person in charge of an animal which is to be carried in a receptacle on a vessel, aircraft or vehicle to ensure that—

- (a) the receptacle is secured in such a manner as to prevent its displacement by the motion of the vessel, aircraft or vehicle;
- (b) the receptacle is placed in the vessel, aircraft or vehicle so as to permit—
 - (i) unimpeded access to it (except where it is carried in the hold of an aircraft), and
 - (ii) the animal contained in it to be provided with adequate ventilation;
- (c) the receptacle is kept in an upright position; and
- (d) if the receptacle is placed on top of another receptacle containing animals, precautions are taken to prevent excreta falling on to the animals below.

Accommodation of animals during carriage

9.(1) It shall be the duty of the carrier or other person in charge of animals being carried to ensure that any vessel, aircraft or vehicle, or any pen therein, in which the animals are being carried is not overcrowded, and that the said animals are accommodated in such a way as to avoid any risk of injury or unnecessary suffering.

(2) Where two or more animals are being carried together in the same vessel, aircraft or vehicle, the carrier or other person in charge of the said animals shall ensure that, where necessary, the animals are separated from each other; and in determining whether it is necessary that such animals should be so separated, he shall have regard to their species, and in particular to any natural hostility which such animals may have towards each other.

(3) It shall be the duty of the carrier or other person in charge of animals being carried on any vessel, aircraft or vehicle to ensure that—

- (a) any ropes or other attachments used for the tethering of animals during their carriage—
 - (i) will not break under normal conditions, and
 - (ii) are long enough to allow the animals, if necessary, to lie down and to eat and drink;
- (b) cattle are not tethered by the horns; and
- (c) the animals are not carried in proximity to any goods the presence of which is likely to prejudice their welfare.

Animals injured during carriage

10.(1) Where an animal is seriously injured during carriage by sea or air, the master or, as the case may be, the commander shall, unless he is of the opinion that the said animal can be kept alive and landed without cruelty, cause it to be

humanely slaughtered in a manner appropriate to its species:

Provided that this paragraph shall not apply to—

(a) horses carried by sea to which the provisions of section 40 of the Act apply; and

(b) horses carried by air.

(2) Where an animal is seriously injured during carriage by road or rail, the person in charge of the said animal shall without delay arrange either—

(a) for the animal to receive veterinary treatment; or

(b) for the animal to be carried with all practicable speed to the nearest place at which it can be slaughtered, if such carriage can be effected without cruelty.

Offences

11. The contravention of any provision of this order, or the failure to comply with any such provision, or with any provision of a notice served under Article 5 or Article 7 hereof, or the causing or permitting of any such contravention or non-compliance, shall be an offence against the Act.

Local authority to enforce order

12. This order shall, except where otherwise expressly provided, be executed and enforced by the local authority.

EUROPEAN CONVENTION FOR THE PROTECTION OF ANIMALS DURING INTERNATIONAL TRANSPORT

Adopted December 13, 1968 at Paris

Entered into force February 20, 1971

• • •

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage;

Convinced that the requirements of the international transport of animals are not incompatible with the welfare of the animals;

Animated by the desire to safeguard, as far as possible, animals in transport from suffering;

Considering that progress in this respect may be achieved through the adoption of common provisions regarding the international transport of animals.

Have agreed as follows:

Chapter 1

Article 1

1. Each Contracting Party shall apply the provisions governing the international transport of animals contained in this Convention.

2. For the purposes of this Convention international transport is understood to be any movement which involves the crossing of a frontier. Frontier traffic shall, however, be excluded.

3. The competent authorities of the country of dispatch shall decide whether the transport is in conformity with the provisions of this Convention. Nevertheless the country of destination or intermediate countries may dispute whether any particular transport conforms with the provisions of this Convention. Such a consignment shall, however, be detained only when it is strictly necessary for the welfare of the animals.

4. Each Contracting Party shall take the necessary measures to avoid or reduce to a minimum the suffering of animals in cases when strikes or other unforeseeable circumstances in its territory impede the strict application of the provisions of this Convention. It will be guided for this purpose by the principle set out in this Convention.

Article 2

This Convention applies to the international transport of:

- (a) domestic solipeds and domestic animals of the bovine, ovine, caprine and porcine species (Chapter II);
- (b) domestic birds and domestic rabbits (Chapter III);
- (c) domestic dogs and domestic cats (Chapter IV);
- (d) other mammals and birds (Chapter V);
- (e) cold-blooded animals (Chapter VI).

Chapter II

Domestic solipeds and domestic animals of the bovine, ovine, caprine and porcine species

A. General Provisions

Article 3

1. Before animals are loaded for international transport they shall be inspected by an authorized veterinary officer of the exporting country who shall satisfy himself that they are fit for transportation. For the purposes of this Convention an authorized veterinary officer is understood to be a veterinary officer nominated by the competent authority.

2. Loading shall be carried out under arrangements approved by an authorized veterinary officer.

3. The authorized veterinary officer shall issue a certificate which identifies the animals, states that they are fit for transportation, and, where possible, records the registration number of the means of transport and the type of vehicle used.

4. In certain cases determined by agreement between the Contracting Parties concerned the provisions of this Article need not apply.

Article 4

Animals likely to give birth during carriage or having given birth during the preceding 48 hours shall not be considered fit for transportation.

Article 5

The authorized veterinary officer of the exporting country, country of transit, or importing country may prescribe a period of rest, at a place determined by him, during which the animals shall receive the necessary care.

Article 6

1. Animals shall be provided with adequate space and, unless special conditions require to the contrary, room to lie down.

2. The means of transport and containers shall be constructed so as to protect animals against inclement weather conditions and marked differences in climatic conditions. Ventilation and air space shall be adapted to the conditions of transport and be appropriate for the species of animals carried.

3. Containers in which animals are transported shall be marked with a symbol indicating the presence of live animals and a sign indicating the upright position. Containers shall be easy to clean, escape-proof and shall be so constructed as to ensure the safety of the animals. Containers shall also allow for the inspection and care of the animals and shall be stowed in a way which does not interfere with ventilation. During transport and handling, containers shall always be kept upright and shall not be exposed to severe jolts or shaking.

4. During transport animals shall be offered water and appropriate food at suitable intervals. Animals shall not be left more than 24 hours without being fed and watered. This period may, however, be extended if the journey to the destination where the animals are unloaded can be completed within a reasonable period.

5. Solipeds shall wear halters during transport. This provision need not apply to unbroken animals.

6. When animals are tied the ropes or other attachments used shall be strong enough not to break during the transport under normal conditions, and long enough to allow the animals, if necessary, to lie down and to eat and drink. Bovines shall not be tied by the horns.

7. Solipeds, unless in individual stalls, shall have their hind feet unshod.

8. Bulls over 18 months should preferably be tied. They shall be fitted with a nose-ring for handling purposes only.

Article 7

1. When animals of various species travel in the same truck, vehicle, vessel, or aircraft, they shall be segregated according to species. Furthermore special measures shall be taken to avoid adverse reactions which might result from the transport in the same consignment of species naturally hostile to each other. When animals of different ages are carried in the same truck, vehicle, vessel, or aircraft, adult and young animals shall be kept separate; this restriction shall not, however, apply to females travelling with their young which they suckle. With regard to bovine, soliped and porcine animals, mature uncastrated males shall be separated from females. Adult boars shall also be separated from each other; this shall also apply to stallions.

2. In compartments in which animals are transported goods shall not be loaded which could prejudice the welfare of the animals.

Article 8

Suitable equipment for loading and unloading of animals such as bridges, ramps, or gangways shall be used. The flooring of this equipment shall be constructed so as to prevent slipping, and the equipment shall be provided with the lateral protection if necessary. Animals shall not be lifted by the head, horns, or legs during loading or unloading.

Article 9

The floor of trucks, vehicles, vessels, aircraft, or containers shall be sufficiently strong to bear the weight of the animals being transported, close-boarded, and so constructed as to prevent slipping. The floor shall be covered with an adequate amount of litter to absorb excrements unless these can be dealt with in a different way presenting at least the same advantages.

Article 10

In order to ensure the necessary care of the animals during transport, consignments of livestock shall be accompanied by an attendant, except in the following cases:

- (a) where livestock is consigned in containers which are secured;
- (b) where the transporter undertakes to assume the functions of the attendant;
- (c) where the sender has appointed an agent to care for the animals at appropriate staging points.

Article 11

1. The attendant or sender's agent shall look after the animals, feed and water them, and, if necessary, milk them.
2. Cows in milk shall be milked at intervals of not more than 12 hours.
3. To enable the attendant to provide this care, he shall, if necessary, have available a suitable means of lighting.

Article 12

Animals which become ill or injured in transport shall receive veterinary attention as soon as possible, and if necessary be slaughtered in a way which avoids unnecessary suffering.

Article 13

Animals shall only be loaded into trucks, vehicles, vessels, aircraft, or containers which have been thoroughly cleaned. Dead animals, litter and excrements shall be removed as soon as possible.

Article 14

Animals shall be transported to their destination as soon as possible, and delays, particularly in trans-shipment and marshalling yards, shall be reduced to a minimum.

Article 15

In order that importation and transit formalities may be completed as quickly as possible, consignments of animals shall be notified as early as possible to control posts. In such formalities priority should be given to consignments of animals.

Article 16

At posts where sanitary control is exercised and animals in significant numbers are regularly transported, facilities shall be provided for resting, feeding and watering.

B. Special Provisions for Transport by Railway

Article 17

Any railway truck in which animals are transported shall be marked with a symbol for the living animal. If no trucks particularly adapted for transport of animals are obtainable, animals shall be carried in covered trucks which are capable of travelling at high speed and are provided with sufficiently large air vents. They shall be constructed

so as to prevent animals from escaping and ensure their safety. The interior sides of the trucks shall be of wood or other suitable material completely smooth and fitted with rings or bars at suitable height to which the animals may be attached.

Article 18

Solipeds shall be tied in such a way that they are all facing the same side of the vehicle or tied facing each other. However, young unbroken animals shall not be tied.

Article 19

Large animals shall be loaded in such a way as to allow an attendant to move between them.

Article 20

When, in accordance with the provisions of Article 7, the separation of animals is required, this may be effected either by tying them in separate parts of the truck, if its space permits, or by means of suitable partitions.

Article 21

When assembling trains and during all other movement of trucks all precautions shall be taken to avoid violent jolting of trucks containing animals.

C. Special Provisions for Transport by Road

Article 22

Vehicles shall be escape-proof and so constructed as to ensure the safety of the animals and shall also be equipped with a roof which ensures effective protection against the weather.

Article 23

Tying facilities shall be provided in vehicles carrying large animals which normally require to be tied. When vehicles are required to be subdivided, the partitions shall be of rigid construction.

Article 24

Vehicles shall carry a ramp complying with the requirements of Article 8.

D. Special Provisions for Transport by Water

Article 25

The fittings of vessels shall be such that animals can be transported without injury and unnecessary suffering.

Article 26

Animals shall not be transported on open decks unless in adequately secured containers or substantial structures, approved by the competent authority and giving adequate protection against sea and weather.

Article 27

Animals shall be tied or properly accommodated in pens or containers.

Article 28

There shall be adequate passageways having access to all pens or containers accommodating animals. Lighting facilities shall be available.

Article 29

A sufficient number of attendants shall be provided taking into account the number of animals transported and the duration of the voyage.

Article 30

All parts of the vessel where animals are accommodated shall be provided with drainage and shall be kept in a sanitary condition.

Article 31

A type of instrument approved by the competent authority shall be carried for killing animals if necessary.

Article 32

Vessels used for the transport of animals shall, before sailing, be provisioned with such supplies of drinking water and appropriate foodstuffs as shall be considered sufficient by the competent authority of the sending country, having regard to species and number of animals being transported as well as to the duration of the voyage.

Article 33

Provisions shall be made for isolating ill or injured animals during the voyage and first-aid treatment rendered when necessary.

Article 34

The provisions of Articles 25 to 33 shall not apply to the transport of animals loaded in railway trucks or road vehicles on board ferry boats or similar vessels.

E. Special Provisions for Transport by Air

Article 35

Animals shall be transported in containers or stalls appropriate for the species. Some modifications of these requirements may be permitted if appropriate arrangements are made for restraining the animals.

Article 36

Precautions shall be taken to avoid extremely high or low temperatures on board, having regard to the species of animals. In addition, severe fluctuations of air pressure shall be avoided.

Article 37

In freight aircraft a type of instrument approved by the competent authority shall be carried for killing animals if necessary.

Chapter III

Domestic birds and domestic rabbits

Article 38

The following provisions of Chapter II shall apply *mutatis mutandis* to the transport of domestic birds and domestic rabbits: Article 6, paragraphs 1 to 3, Articles 7, 13 to 17 inclusive, 21, 22, 25 to 30 inclusive, 32, 34 to 36 inclusive.

Article 39

1. Animals that are ill or injured shall not be considered fit for transport. Any that

become ill or injured shall receive first-aid treatment as soon as possible and if necessary be submitted to veterinary examination.

2. When animals are loaded in containers one placed on top of another or in a truck or vehicle with more than one floor, the necessary precautions shall be taken to avoid droppings falling on the animals placed underneath.

3. Suitable food and, if necessary, water shall be available in adequate quantities, save in the case of:

- (a) a journey lasting less than 12 hours;
- (b) a journey lasting less than 24 hours for chicks of all species, provided that it is completed within 72 hours after hatching.

Chapter IV

Domestic dogs and domestic cats

Article 40

1. The provisions of this Chapter shall apply to the transport of domestic dogs and domestic cats except those that are accompanied by the owner or his representative.

2. The following provisions of Chapter II shall apply *mutatis mutandis* to the transport of domestic dogs and domestic cats: Article 4, Article 6, paragraphs 1 to 3 inclusive, Articles 7, 9, 10, Article 11, paragraphs 1 and 3, Articles 12 to 17 inclusive, 20 to 23 inclusive, 25 to 29 inclusive and 31 to 37 inclusive.

Article 41

Animals in transport shall be fed at intervals of not more than 24 hours and given water at intervals of not more than 12 hours. There shall be clear written instructions about feeding and watering. Bitches in oestrus shall be separated from male dogs.

Chapter V

Other mammals and birds

Article 42

1. The provisions of this Chapter apply to the transport of those mammals and birds which are not already covered by the provisions of the preceding Chapters.

2. The following provisions of Chapter II shall apply *mutatis mutandis* to the transport of the species concerned in this Chapter: Articles 4 and 5, Article 6, paragraphs 1 to 3 inclusive, Articles 7 to 10 inclusive, Article 11, paragraphs 1 and 3, Articles 12 to 17 inclusive, 20 to 37 inclusive.

Article 43

Animals shall only be transported in suitably constructed vehicles or containers, on which shall, if necessary, be directions that there are wild animals in them which are nervously timid or dangerous. Moreover, there shall be clear written instructions about feeding and watering and any special care required.

Article 44

Antlered animals shall not be transported while in velvet unless special precautions are taken.

Article 45

Animals covered by this Chapter shall be cared for in accordance with the instructions referred to in Article 43.

Chapter VI
Cold-blooded animals

Article 46

Cold-blooded animals shall be transported in such containers, under such conditions, in particular with regard to space, ventilation and temperature, and with such supply of water and oxygen as are considered appropriate for the species. They shall be transported to their destination as soon as possible.

Chapter VII
Settlement of disputes

Article 47

1. In case of a dispute regarding the interpretation or the application of the provisions of this Convention, the competent authorities of the Contracting Parties concerned shall consult with each other. Each Contracting Party shall communicate to the Secretary General of the Council of Europe the names and addresses of their competent authorities.

2. If the dispute has not been settled by this means, it shall, at the request of one or other of the parties to the dispute, be referred to arbitration. Each party shall nominate an arbitrator and the two arbitrators shall nominate a referee. If one of the two parties to the dispute has not nominated its arbitrator within the three months following the request for arbitration, he shall be nominated at the request of the other party to the dispute by the President of the European Court of Human Rights. If the latter should be a national of one of the parties to the dispute, this duty shall be carried out by the Vice-President of the Court or, if the Vice-President is a national of one of the parties to the dispute, by the most senior judge of the Court not being a national of one of the parties to the dispute. The same procedure shall be observed if the arbitrators cannot agree on the choice of referee.

3. The arbitration tribunal shall lay down its own procedure. Its decisions shall be taken by majority vote. Its award which shall be based on this Convention shall be final.

Chapter VIII
Final Provisions

Article 48

1. This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.

2. This Convention shall enter into force six months after the date of the deposit of the fourth instrument of ratification or acceptance.

3. In respect of a signatory State ratifying or accepting subsequently, the Convention shall come into force six months after the date of the deposit of its instrument of ratification or acceptance.

Article 49

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any non-member State to accede thereto.

2. Such accession shall be effected by depositing with the Secretary General of the

Council of Europe an instrument of accession which shall take effect six months after the date of its deposit.

Article 50

1. Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory or territories to which this Convention shall apply.

2. Any Contracting Party may, when depositing its instrument of ratification, acceptance or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorized to give undertakings.

3. Any declarations made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration be withdrawn according to the procedure laid down in Article 51 of this Convention.

Article 51

1. This Convention shall remain in force indefinitely.

2. Any Contracting Party may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

3. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

Article 52

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Convention of:

- (a) any signature;
- (b) any deposit of an instrument of ratification, acceptance or accession;
- (c) any date of entry into force of this Convention in accordance with Article 48 thereof;
- (d) any declaration received in pursuance of paragraphs 2 and 3 of Article 50;
- (e) any notification received in pursuance of the provisions of Article 51 and the date on which denunciation takes effect;
- (f) any communication received in pursuance of Article 47, paragraph 1.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

Austria
Belgium
Cyprus
Denmark
Finland
France
Greece

Iceland
Ireland
Italy
Luxembourg
Netherlands
Norway
Portugal

Spain
Sweden
Switzerland
Turkey
United Kingdom
West Germany

DONE at Paris this 13th day of December 1968 in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives

of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

[NOTE: An Additional Protocol (No. 103) enabling the EEC to become a Party to the Convention has been ratified by all party states, and Recommendations have been drawn up under the terms of the Convention laying down detailed conditions for the transport of horses (Recommendation No. R (87) 17) and pigs (R (88) 15). Recommendations on the transport of cattle, sheep, goats and poultry were adopted by the Committee of Ministers in January 1990.]

**RESOLUTION ON ANIMAL WELFARE POLICY
EUROPEAN PARLIAMENT
20 February 1987**

This is the text of recommendations from the European Parliament Agriculture Committee to the European Commission. The Commission has responded with a number of proposals for regulations that take account of the concerns in the report. These have not yet appeared in final form.

The European Parliament:

A. whereas livestock production accounts for over half of total final agricultural production in the Community,

B. whereas uniform rules for livestock production are essential both from the ethical point of view and from the point of view of competition,

C. whereas improvements and changes in animal welfare practice can have significant effects on economic conditions for farmers and traders, affecting production patterns (including the production of surpluses), employment, consumer requirements, trade patterns, the environment and the treatment of animals themselves,

D. whereas policy in animal welfare forms part of the package of measures needed to achieve a true reform of the Common Agricultural Policy,

E. whereas further limited scientific research (linked with pilot projects for practical research) in the field of farm animal welfare, encouraged and coordinated by the European Community, is necessary, although the research done so far has already provided enough results to form a basis for a necessary minimum of legislation in the short term,

F. whereas measures to improve farm animal welfare can have an effect on both the prices and the quality of certain products of intensive methods of husbandry and whereas such measures and their effects are both socially acceptable and desirable,

G. whereas evidence has been produced showing numerous cases of cruel and inhumane treatment of animals during lengthy journeys involving live animals,

General

1. Points out that the conditions of animals involved in the different sectors in which this resolution concerns itself—namely, the intensive rearing of veal calves, the transport of farm animals, the keeping of laying hens, and the intensive rearing of pigs—vary considerably and that separate legislation will be required for each of these sectors;
2. Again expresses its wish that the Council of Europe Convention 641 (farm animal welfare) should be adopted by the Community;
3. Believes that, for each of the sectors examined in the resolution, directives must be drawn up without delay establishing clear standards for farm animal welfare, and that in the process the existing legislation must be harmonized at as favourable a level as possible;
4. Points out the need for an EEC Inspectorate to monitor the international trade in live animals and investigate infringements of the existing Directives and Codes of Practice;
5. Calls on the Commission to introduce a Regulation setting down 24 hours as a maximum journey time for transport of animals without water, rest and food, and also urges the Commission, on the basis of further research into this sector, to draw up a programme for the additional legislation to be introduced in the coming years in the field of farm animal welfare;
6. Welcomes in this connection the initiatives by the European cattle markets organization to set up a Code of Practice to protect farm animals, and urges the Commission to do its utmost to support this initiative and to promote further such initiatives in this field;
7. Reiterates that, as recommended in its resolution of 12 July 1985, such an approach requires a programme of research, coordinated by the Commission, through the establishment of a special policy section, which will take account of advice from farmers and traders, enforcement agencies and scientific experts on animal needs as well as economic conditions faced by farmers and traders, in order to establish minimum welfare standards which can be implemented viably; further, the financial means necessary to achieve enforcement of controls and inspection procedures and to launch a public information and education programme should be provided;
8. Recommends that each Member State should be asked to inform the Commission of its existing legislation on animal welfare so as to enable the Commission to draw up minimum enforceable welfare standards for use throughout the Community which can be adequately implemented and enforced by Member States;
9. Recognizes nevertheless that there is an urgent need for the sector by sector approach to be complemented by comprehensive proposals covering general aspects of the rearing of farm livestock with a view to ensuring that the principles and provisions of the European Convention for the Protection of Animals Kept for Farming Purposes are fully implemented in the Member States;

The intensive rearing of veal calves

10. Believes that the present system of feeding calves on an exclusively liquid diet, while housing them in individual crates, which deny them the opportunity to move or turn round, should be abolished in favour of a system of group housing;

11. Is of the opinion that a diet containing roughage and adequate amounts of iron, which would lead to a pinker coloured meat, would not only favour the normal development of a calf, but is not likely to create consumer resistance, especially if the consumer is made aware of the method of production of white meat;

12. Is of the opinion that a diet which does not contain roughage but consists solely of feed with insufficient iron content, resulting in "white" veal is unethical and that such a rearing system should be prohibited in Community countries;

13. Believes that legislation should be drawn up to achieve these changes, based on minimum standards which take into account the calf's need for a well ventilated environment, a balanced diet, adequate room to stand up, lie down, turn around and adopt a comfortable sleeping posture, and that such calves should not be deprived of social contact with other calves after six weeks of age;

14. Considers that all food animals should be slaughtered as near to the point of production as possible, but recognizes that the transport of live farm animals may in some specific circumstances continue, but subject to stringent safeguards for their welfare;

15. Stresses, however, that the existing directives on transport must be applied more rigorously, since it is clear from checks that insufficient effort is being made to comply with them, and in order to do this the Commission must have its own source of information and means of checking and therefore reiterates the need for the Commission to set up an Inspectorate to deal with these matters as outlined in paragraph 4;

16. Therefore calls on the Commission to see that Community law in this field is enforced, if necessary by taking legal action against defaulting Member States;

17. Urges the Commission to undertake an investigation into the practical working of existing transport directives which as a priority must look at the problems facing those trying to enforce legislation on a day to day basis. It should also consult people involved in the transport of live animals and the animal welfare agencies and give particular consideration to the problems surrounding the transport of spent laying hens to slaughter;

18. Calls on the Commission, on the findings of this investigation, to introduce measures to ensure that Community Transport Directives are properly enforced;

19. Calls upon the Commission to establish a working group to consider the introduction of standards for the design and construction of vehicles required to transport farm livestock over long distances;

20. Believes that in the short term a directive must be drawn up specifying conditions for the transport of live farm animals;

21. Believes that much needs to be done in the field of education of those in-

volved in transport, and that there would be merit in providing incentives and encouragement to the trade to change over from live animal transport to carcass transport;

22. Calls on the Commission to engage in discussion with the cattle markets organization in the European Community in order to secure wider application of the code of practice drawn up by this organization;

The keeping of laying hens

23. Notes that most experts believe that the battery cage system, even with the new recently agreed minimum standards, contravenes the Council of Europe's Convention on the Protection of Animals Kept for Farming Purposes; takes the view that the system should be phased out within 10 years and that Member States should adopt a statement of intent to this effect;

24. Stresses that implementation of uniform rules for the keeping of battery hens is a matter of urgency, since producers in countries with the strictest rules will otherwise be unable to compete;

25. Takes the view that research coordinated by the Commission is necessary in order to establish standards for alternative systems of keeping poultry, taking account of the economic conditions prevailing in this branch of industry;

26. Draws attention to Article 9 of the Council Directive of 25 March 1986 laying down minimum standards for the protection of laying hens kept in the battery cages (86/113/EEC), which requires the Commission to submit a report on this matter by 1 January 1993;

27. Welcomes the growth in the last three years of alternative systems and that whilst much progress has been made with the application of modern technology, recognizes that there is need for more research and practical experience of commercial large scale alternative systems;

28. Takes the view that farmers are entitled to assurances with regard to the social acceptability of their investments and calls on the Commission, therefore, to draw up a timetable for the gradual replacement of the existing battery cage system with systems which are not prejudicial to animal welfare;

The intensive rearing of pigs

29. Believes that minimum standards in the form of enforceable legislation, should be laid down for the keeping of pigs; suggests that these must include references to the need for a certain amount of straw, or equivalent material, for the well-being of sows;

30. Strongly believes that the close confinement of sows in cell stalls or tethers should be discontinued and points out that experts seem to confirm this would have few negative effects on the economies of pig production;

31. Believes also that more research and improvement is necessary on minimum requirements for a farrowing stall which would allow both for the provision of straw or similar material for the sow and suitable protection for the piglets;

32. Believes also that the minimum age for weaning should be three weeks, that weaned piglets being reared for fattening purposes should be provided with a

non-slatted or non-perforated surface as a lying/resting area, and that mutilations such as tail-docking and castration of male pigs need no longer be carried out routinely, but only where this is beneficial to the animals' welfare; points out that at present pigs are slaughtered before sexual maturity is reached and that the consumer can therefore be protected against tainted meat more effectively in another way;

Final

33. Calls on the Commission urgently:

(i) to come forward with proposals for directives relating to the intensive rearing of veal calves as indicated in paragraphs 10-13 above;

(ii) to come forward with proposals for directives on minimum standards for the intensive rearing of fattening pigs and for the keeping of gilts and sows for breeding as indicated in paragraphs 29-32 above;

(iii) to draw up proposals for directives on transport for different species of farm animals, stressing that these should, in particular, give detailed guidance on loading and unloading procedures, stocking densities and ventilation during the journey, as indicated in paragraphs 14 to 22 above and to introduce the Regulation called for in paragraph 5 above;

(iv) to evaluate and report on the results of recent research on the optimum number of hens which should be kept in battery cages and to set up an information programme concerning the different systems of egg production so that consumers can be properly informed on this subject;

34. Further calls on the Commission to come forward at the latest by December 1987 with comprehensive proposals for global directives covering aspects of the rearing of farm livestock with a view to ensuring that the principles and provisions of the European Convention for the Protection of Animals Kept for Farming Purposes are fully implemented in the Member States;

35. Considers that any such proposals for Community action in the field of farm animal welfare should be accompanied by realistic assessments of the cost of implementation to the producer and the consumer;

36. Again urges the Commission to launch a publicity campaign, as a subsection of its policy, to inform consumers about the measures necessary to improve farm animal welfare and the resultant improvement in quality, and at the same time to give an idea of the possible impact which they might have on prices;

37. Instructs its President to forward this resolution and the report of its committee to the Council and the Commission.

**COUNCIL OF THE EUROPEAN COMMUNITIES
DIRECTIVE ON STUNNING OF ANIMALS
BEFORE SLAUGHTER**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the national legislation actually in force in the field of protection of animals presents disparities of such a nature as to directly effect the functioning of the common market; whereas the effect of the costs arising from these requirements are variable from one Member State to another;

Whereas the Community should also take action to avoid in general all forms of cruelty to animals; whereas it appears suitable, as a first step, that this action should consist of laying down conditions such as to avoid all suffering on the part of animals when being slaughtered;

Whereas in this respect the practice of stunning animals by appropriate recognized techniques should be generalized;

Whereas, however, it is necessary to take account of the particular requirements of certain religious rites,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member states shall ensure that stunning precedes the slaughter of all animals of the following species: bovine animals, swine, sheep, goats and solipeds.

2. For the purposes of this Directive, stunning means a process effected by a mechanically operated instrument, electricity or carbon dioxide which without affecting the wholesomeness of the meat, when applied to an animal, plunges it into a state of unconsciousness which lasts until the animal is slaughtered, avoiding in all cases any unnecessary suffering by the animals. This procedure should be approved by the competent authority.

Article 2

1. The competent national authority shall ensure that stunning is performed by means of equipment approved for the relevant species, that the equipment is in good working order and that it is used correctly, by a person having the necessary capacity and knowledge.

2. The competent national authority shall ensure that stunning is practiced by a slaughterman recognized as having the necessary ability and knowledge.

3. During the operation of stunning, each animal shall be restrained by techniques recognized as appropriate.

Article 3

In certain special cases, notably in case of urgency or slaughter by the owner for his own consumption, the competent national authority may grant derogations from the provisions of this Directive; it shall, however, ensure that animals are never subjected to cruel treatment and that the animal is spared all unnecessary suffering.

Article 4

The present Directive does not affect national provisions related to special methods of slaughter which are required for particular religious rites.

Article 5

The Member States shall, not later than 31 December 1974, bring into force the laws, regulations and administrative provisions necessary to comply with the Directive of 1 July, 1975 at the latest and shall immediately inform the Commission.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, the 18 November, 1974. By the Counsel,

Ch. Bonnet

The President

EUROPEAN CONVENTION FOR THE PROTECTION OF ANIMALS KEPT FOR FARMING PURPOSES

The member States of the Council of Europe signatory hereto,

Considering that it is desirable to adopt common provisions for the protection of animals kept for farming purposes, particularly in modern intensive stock-farming systems,

Have agreed as follows:

CHAPTER I

General Principles

Article 1

This Convention shall apply to the keeping, care and housing of animals, and in particular to animals in modern intensive stock-farming systems. For the purposes of this Convention "animals" shall mean animals bred or kept for the production of food, wool, skin or fur or for other farming purposes, and "modern intensive stock-farming systems" shall mean systems which predominantly employ technical installations operated principally by means of automatic processes.

Article 2

Each Contracting Party shall give effect to the principles of animal welfare laid down in Articles 3 to 7 of this Convention.

Article 3

Animals shall be housed and provided with food, water and care in a manner which—having regard to their species and to their degree of development, adaptation and domestication—is appropriate to their physiological and ethological needs in accordance with established experience and scientific knowledge.

Article 4

1. The freedom of movement appropriate to an animal, having regard to its species and in accordance with established experience and scientific knowledge, shall not be restricted in such a manner as to cause it unnecessary suffering or injury.

2. Where an animal is continuously or regularly tethered or confined, it shall be given

the space appropriate to its physiological and ethological needs in accordance with established experience and scientific knowledge.

Article 5

The lighting, temperature, humidity, air circulation, ventilation, and other environmental conditions such as gas concentration or noise intensity in the place in which an animal is housed, shall—having regard to its species and to its degree of development, adaptation and domestication—conform to its physiological and ethological needs in accordance with established experience and scientific knowledge.

Article 6

No animal shall be provided with food or liquid in a manner, nor shall such food or liquid contain any substance, which may cause unnecessary suffering or injury.

Article 7

1. The condition and state of health of animals shall be thoroughly inspected at intervals sufficient to avoid unnecessary suffering and in the case of animals kept in modern intensive stock-farming systems at least once a day.
2. The technical equipment used in modern intensive stock-farming systems shall be thoroughly inspected at least once a day, and any defect discovered shall be remedied with the least possible delay. When a defect cannot be remedied forthwith, all temporary measures necessary to safeguard the welfare of the animals shall be taken immediately.

CHAPTER II

Detailed Implementation

Article 8

1. A Standing Committee shall be set up within a year of the entry into force of this Convention.
2. Each Contracting Party shall have the right to appoint a representative to the Standing Committee. Any member State of the Council of Europe which is not a Contracting Party to the Convention shall have the right to be represented on the Committee by an observer.
3. The Secretary General of the Council of Europe shall convene the Standing Committee whenever he finds it necessary and in any case when a majority of the representatives of the Contracting Parties or the representative of the European Economic Community, being itself a Contracting Party, request its convocation.
4. A majority of representatives of the Contracting Parties shall constitute a quorum for holding a meeting of the Standing Committee.
5. The Standing Committee shall take its decision by a majority of the votes cast; however, unanimity of the votes cast shall be required for:
 - a. the adoption of the recommendations provided for in paragraph 1 of Article 9;
 - b. the decision to admit observers other than those referred to in paragraph 2 of this Article;
 - c. the adoption of the report referred to in Article 13; this report could set out, where appropriate, divergent opinions.
6. Subject to the provisions of this Convention, the Standing Committee shall draw up its own Rules of Procedure.

Article 9

1. The Standing Committee shall be responsible for the elaboration and adoption of Recommendations to the Contracting Parties containing detailed provisions for the implementation of the principles set out in Chapter I of this Convention, to be based on scientific knowledge concerning the various species of animals.
2. For the purposes of carrying out its responsibilities under paragraph 1 of this Article, the Standing Committee shall follow developments in scientific research and new methods in animal husbandry.
3. Unless a longer period is decided upon by the Standing Committee, a Recommendation shall become effective as such six months after the date of its adoption by the Committee. As from the date when a Recommendation becomes effective each Contracting Party shall either implement it or inform the Standing Committee by notification to the Secretary General of the Council of Europe of the reasons why it has decided that it cannot implement the Recommendation or can no longer implement it.
4. If two or more Contracting Parties or the European Economic Community, being itself a Contracting Party, have given notice in accordance with paragraph 3 of this Article of their decision not to implement or no longer to implement a Recommendation, that Recommendation shall cease to have effect.

Article 10

The Standing Committee shall use its best endeavors to facilitate a friendly settlement of any difficulty which may arise between Contracting Parties concerning the implementation of this Convention.

Article 11

The Standing Committee may express any advisory opinion on any question concerning the protection of animals at the request of a Contracting Party.

Article 12

Each Contracting Party may appoint one or more bodies from which the Standing Committee may request information and advice to assist it in its work. Contracting Parties shall communicate to the Secretary General of the Council of Europe the names and addresses of such bodies.

Article 13

The Standing Committee shall submit to the Committee of Ministers of the Council of Europe, at the expiry of the third year after the entry into force of this Convention and of each further period of three years, a report on its work and on the functioning of the Convention, including if it deems it necessary proposals for amending the Convention.

CHAPTER III

Final Provisions

Article 14

1. This Convention shall be open to signature by the member States of the Council of Europe and by the European Economic Community. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
2. This Convention shall enter into force six months after the date of the deposit of the fourth instrument of ratification, acceptance or approval by a member State of the Council of Europe.

3. In respect of a signatory Party ratifying, accepting or approving after the date referred to in paragraph 2 of this Article, the Convention shall enter into force six months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 15

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, upon such terms and conditions as it deems appropriate, invite any non-member State to accede thereto.

2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect six months after the date of its deposit.

Article 16

1. Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any Contracting Party may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorized to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 17 of this Convention.

Article 17

1. Any Contracting Party may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

Article 18

The Secretary General of the Council of Europe shall notify the member States of the Council and any Contracting Party not a Member of the Council of:

- a. any signature;
- b. any deposit of an instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Convention in accordance with Articles 14 and 15 thereof;
- d. any Recommendation of the kind referred to in paragraph 1 of Article 9 and the date on which it takes effect;
- e. any notification received in pursuance of the provisions of paragraph 3 of Article 9;

- f. any communication received in pursuance of the provisions of Article 12;
- g. any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 16;
- h. any notification received in pursuance of the provisions of Article 17 and the date on which denunciation takes effect.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Convention.

Belgium	April 30, 1976
Cyprus	November 8, 1976
Denmark	March 10, 1976
Federal Republic of Germany	July 23, 1976
France	July 3, 1976
Greece	April 30, 1976
Iceland	January 27, 1977
Ireland	June 28, 1978
Italy	April 23, 1980
Luxembourg	April 8, 1976
Malta	September 29, 1988
The Netherlands	September 4, 1980
Norway	January 28, 1980
Portugal	November 20, 1979
Spain	November 8, 1985
Sweden	June 8, 1976
Switzerland	July 7, 1976
United Kingdom	March 10, 1976

Done at Strasbourg, this 10th day of March 1976, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding Parties.

[Conditions of entry into force: 4 ratifications; Convention went into force September 10, 1978.]

EUROPEAN CONVENTION FOR THE PROTECTION OF ANIMALS FOR SLAUGHTER

CHAPTER 1 General principles

Article 1

1. This Convention shall apply to the movement, lairaging, restraint, stunning and slaughter of domestic solipeds, ruminants, pigs, rabbits and poultry.

2. For the purpose of this Convention:

slaughterhouse: shall mean any premises under health control, intended for the professional slaughter of animals to produce meat for consumption or for any other reason;

moving animals: shall mean unloading or driving them from unloading platforms or from stalls or pens at slaughterhouses to the premises or place where they are to be slaughtered;

lairaging: shall mean keeping animals in stalls, pens or other covered areas at slaughterhouses in order to give them the necessary attention (water, fodder, rest) before they are slaughtered;

restraint: shall mean the application to an animal of any procedure in conformity with the provisions of this Convention designed to restrict its movements in order to facilitate stunning or slaughter;

stunning: shall mean any process in conformity with the provisions of this Convention, which when applied to an animal induces a state of insensibility which lasts until it is dead, thus sparing it in any event any avoidable suffering;

slaughter: shall mean causing the death of an animal after restraint, stunning and bleeding with the exceptions provided for in Chapter III of this Convention.

Article 2

1. Each Contracting Party shall take the necessary steps to ensure the implementation of the provisions of this Convention.

2. Nothing in this Convention shall, however, prevent Contracting Parties from adopting more stringent rules to protect animals.

3. Each Contracting Party shall ensure that the design, construction and facilities of slaughterhouses and their operation shall be such as to ensure that the appropriate conditions provided for in this Convention are complied with in order to spare animals any avoidable excitement, pain or suffering.

4. For slaughtering outside or inside slaughterhouses each Contracting Party shall ensure that the animals are spared any avoidable pain or suffering.

CHAPTER II

Delivery of animals to slaughterhouses and their lairaging until they are slaughtered

Article 3

1. Animals shall be unloaded as soon as possible. While waiting in the means of transport they shall be protected from extremes of weather and provided with adequate ventilation.
2. The personnel responsible for moving and lairaging such animals shall have the knowledge and skills required and shall comply with the requirements set out in this Convention.

Section I

The moving of animals within the precincts of slaughterhouses

Article 4

1. The animals shall be unloaded and moved with care.
2. Suitable equipment such as bridges, ramps, or gangways, shall be used for unloading animals. The equipment shall be constructed with flooring which will permit a proper foothold and, if necessary, shall be provided with lateral protection. Bridges, ramps and gangways shall have the minimum possible incline.
3. The animals shall not be frightened or excited. In any event care must be taken to ensure that animals are not overturned on bridges, ramps or gangways and that they cannot fall from them. In particular animals shall not be lifted by the head, feet or tail in a manner which will cause them pain or suffering.
4. When necessary, animals shall be led individually. Corridors along which they are moved must be so designed that they cannot injure themselves.

Article 5

1. When animals are moved their gregarious tendencies shall be exploited. Instruments shall be used solely to guide them and must only be used for short periods, in particular, they shall not be struck on, nor shall pressure be applied to, any particularly sensitive part of the body. Electric shocks may be used for bovine animals and pigs only, provided that the shocks last no more than two seconds, are adequately spaced out and the animals have room to move; such shocks shall be applied only to appropriate muscles.
2. Animals' tails shall not be crushed, twisted or broken and their eyes shall not be grasped. Blows and kicks shall not be inflicted.
3. Cages, baskets or crates in which animals are transported shall be handled with care. They shall not be thrown to the ground or knocked over.
4. Animals delivered in cages, baskets or crates with flexible or perforated bottoms shall be unloaded with particular care in order to avoid injuring the animals' extremities. Where appropriate they shall be unloaded individually.

Article 6

1. Animals shall not be taken to the place of slaughter unless they can be slaughtered immediately.
2. Animals which are not slaughtered immediately on arrival shall be lairaged.

Section II**Lairaging***Article 7*

1. Animals shall be protected from unfavourable climatic conditions. Slaughterhouses shall be equipped with a sufficient number of stalls and pens for lairaging of the animals with protection from the effects of adverse weather.
2. The floor areas where animals are unloaded, moved, kept waiting or temporarily based, shall not be slippery. It shall be such that it can be cleaned, disinfected and thoroughly drained of liquids.
3. Slaughterhouses shall have covered areas with feeding and drinking troughs and arrangements for tying up animals.
4. Animals which must spend the night at the slaughterhouse shall be so housed and, where appropriate, tied up in such a way that they may lie down.
5. Animals naturally hostile to each other on account of their species, sex, age or origin shall be separated from each other.
6. Animals which have been transported in cages, baskets or crates shall be slaughtered as soon as possible; otherwise they shall be watered and fed in accordance with the provisions of Article 8.
7. If animals have been subjected to high temperatures in humid weather, they shall be cooled.
8. Where climatic conditions make it necessary (e.g. high humidity, low temperatures), animals shall be placed in well-ventilated accommodation. During foddering the stalls shall be adequately lit.

Section III**Care***Article 8*

1. Unless they are conducted as soon as possible to the place of slaughter, animals shall be offered water on arrival in the slaughterhouse.
2. With the exception of animals to be slaughtered within 12 hours of their arrival, they shall subsequently be given moderate quantities of food and water at appropriate intervals.
3. Where animals are not tied up, feeding receptacles shall be provided which will permit the animals to feed undisturbed.

Article 9

1. The condition and state of health of the animals shall be inspected at least every morning and evening.

2. Sick, weak or injured animals shall be slaughtered immediately. If this is not possible, they shall be separated in order to be slaughtered as soon as possible.

Section IV Other provisions

Article 10

In respect of reindeer, each Contracting Party may authorize derogations from the provisions of Chapter II of this Convention.

Article 11

Each Contracting Party may prescribe that the provisions of Chapter II of this Convention shall be applied *mutatis mutandis* to moving and lairaging of animals outside slaughterhouses.

CHAPTER III Slaughtering

Article 12

Animals shall be restrained where necessary immediately before slaughtering and, with the exceptions set out in Article 17, shall be stunned by an appropriate method.

Article 13

In the case of ritual slaughter of animals of the bovine species, they shall be restrained before slaughter by mechanical means designed to spare them all avoidable pain, suffering, agitation, injury or contusions.

Article 14

No means of restraint causing avoidable suffering shall be used; animals' hind legs shall not be tied nor shall they be suspended before stunning or, in the case of ritual slaughter, before the end of bleeding. Poultry and rabbits may, however, be suspended for slaughtering provided that stunning takes place directly after suspension.

Article 15

Other slaughter operations than those mentioned in Article 1, paragraph 2 may commence only after the animal's death.

Article 16

1. The stunning methods authorized by each Contracting Party shall bring animals into a state of insensibility which lasts until they are slaughtered, thus sparing them in any event all avoidable suffering.
2. Use of the puntilla, hammer or pole-axe shall be prohibited.

3. In the case of solipeds, ruminants and pigs, only the following stunning methods shall be permitted:

- mechanical means employing instruments which administer a blow or penetrate at the level of the brain,
- electro-narcosis,
- gas anaesthesia.

4. Each Contracting Party may authorize derogations from the provisions of paragraphs 2 and 3 of this Article in the case of slaughter of an animal at the place where it was reared by the producer for his personal consumption.

Article 17

1. Each Contracting Party may authorize derogations from the provisions concerning prior stunning in the following cases:

- slaughtering in accordance with religious rituals,
- emergency slaughtering when stunning is not possible,
- slaughtering of poultry and rabbits by authorized methods causing instantaneous death,
- killing of animals for the purposes of health control where special reasons make this necessary.

2. Each Contracting Party availing itself of the provisions of paragraph 1 of this Article shall, however, ensure that at the time of such slaughter or killing the animals are spared any avoidable pain or suffering.

Article 18

1. Each Contracting Party shall make certain of the skill of persons who are professionally engaged in the restraint, stunning and slaughter of animals.

2. Each Contracting Party shall ensure that the instruments, apparatus or installations necessary for the restraint and stunning of animals comply with the requirements of the Convention.

Article 19

Each Contracting Party permitting slaughter in accordance with religious ritual shall ensure, when it does not itself issue the necessary authorizations, that animal sacrificers are duly authorized by the religious bodies concerned.

CHAPTER IV Final provisions

Article 20

1. This Convention shall be open to signature by the member States of the Council of Europe and by the European Economic Community. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the Council of Europe.

2. This Convention shall enter into force six months after the date of the deposit of the fourth instrument of ratification, acceptance or approval by a member State of the Council of Europe.

3. In respect of a signatory party ratifying, accepting or approving after the date referred to in paragraph 2 of this Article, the Convention shall come into force six months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 21

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, upon such terms and conditions as it deems appropriate, invite any non-member State to accede thereto.

2. Such accession shall be effected by depositing with the Secretary-General of the Council of Europe an instrument of accession which shall take effect six months after the date of its deposit.

Article 22

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any State may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary-General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorized to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary-General. Such withdrawal shall take effect six months after the date of receipt by the Secretary-General of such notification.

Article 23

1. Any Contracting Party may, insofar as it is concerned, denounce this Convention by means of a notification addressed to the Secretary-General of the Council of Europe.

2. Such denunciation shall take effect six months after the date of receipt by the Secretary-General of such notification.

Article 24

The Secretary-General of the Council of Europe shall notify the member States of the Council and any Contracting Party not a member of the Council of:

- (a) any signature;
- (b) any deposit of an instrument of ratification, acceptance, approval or accession;
- (c) any date of entry into force of this Convention in accordance with Articles 20 and 21 thereof;

- (d) any declaration received in pursuance of the provisions of Article 22, paragraph 2;
- (e) any notification received in pursuance of the provisions of Article 22, paragraph 3;
- (f) any notification received in pursuance of the provisions of Article 23 and the date on which denunciation takes effect.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Strasbourg, this 10th day of May 1979, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General of the Council of Europe shall transmit certified copies to each of the signatory and acceding Parties.

Austria	Iceland	Portugal
Belgium	Ireland	Spain
Cyprus	Italy	Sweden
Denmark	Liechtenstein	Switzerland
France	Luxembourg	Turkey
Federal Republic of Germany	Malta	United Kingdom of Great Britain and Northern Ireland
Greece	The Netherlands	
	Norway	

For the European Economic Community

Certified a true copy of the sole original documents, in English and in French, deposited in the archives of the Council of Europe.

Strasbourg, this 21st of May 1979.

1987 No. 2021

ANIMALS

PREVENTION OF CRUELTY

The Welfare of Calves Regulations 1987

Made 23rd November 1987
Coming into force..... 1st January 1990

The Minister of Agriculture, Fisheries and Food and the Secretaries of State for Scotland and Wales, acting jointly in exercise of powers conferred by section 2 of the Agriculture (Miscellaneous Provisions) Act 1968 (a) and now vested in them (b), and of all other powers enabling them in that behalf, and after consultation with such persons appearing to them to represent any interests concerned as they have considered appropriate, hereby make the following Regulations, a draft of which has been approved by resolution of each House of Parliament:

Title, extent and commencement

1. These Regulations may be cited as the Welfare of Calves Regulations 1987, shall apply to Great Britain and shall come into force on 1st January 1990.

Requirements for the welfare of calves

2. No person shall keep, or knowingly cause or permit to be kept, a single calf in a pen or a stall on any agricultural land unless the following requirements are complied with—

- (a) the width of the pen or stall is not less than the height of the calf at the withers;
- (b) the calf is free to turn round without difficulty;
- (c) the calf is fed a daily diet containing sufficient iron to maintain it in full health and vigor; and
- (d) if the calf is more than 14 days old, it has access each day to food containing sufficient digestible fibre so as not to impair the development of its rumen.

Offences

3. A person who contravenes or fails to comply with any provision of these Regulations shall be guilty of an offence under section 2 of the Agriculture (Miscellaneous Provisions) Act 1968.

(a) 1968 c. 34.
(b) In the case of the Secretary of State for Wales, by virtue of S.I. 1978/272.

SWEDISH MINISTRY OF AGRICULTURE

SUMMARY OF THE ANIMAL PROTECTION LAW

Passed by the Swedish Parliament May 27, 1988

Effective July 1, 1988

Domestic animals must have the right to a favourable environment in which their natural behaviour is safeguarded.

Protection for animals is to be improved. In future they are to be protected from illness.

Animal husbandry is to be concentrated on keeping the animals healthy and contented.

These are the basic considerations in the new Animal Protection Act which is planned to enter into force on July 1, 1988.

The new Act will place on the statute book greater powers for the prevention of cruelty to animals in a number of different respects:

- All cattle are to be entitled to be put out to graze.
- Poultry are to be let out of cramped battery cages.
- Sows are no longer to be tethered. They are to have sufficient room to move. Separate bedding, feeding and voiding places are to be provided.
- Cows and pigs are to have access to straw and litter in stalls and boxes.
- Technology must be adapted to the animals, not the reverse. As a result, it must be possible to test new technology from the animal safety and protection viewpoint before being put into practice.
- All slaughtering must be as humane as possible.
- In future, the government is empowered to forbid the use of genetic engineering and growth hormones which may mutate our domestic animals.
- Permission will now be necessary for pelt and fur farms.
- Doping of animals for competitions and events is prohibited.

BACKGROUND

The prevention of cruelty to animals, and their protection, are central issues of ethics and it is an essential part of our cultural heritage that animals be guaranteed protection. It solves nothing to punish cruelty to animals after the fact. What is most important is to make every attempt to prevent animals from being maltreated. The constant changes that are taking place in our animal husbandry require increased attention and awareness. Not least the sweeping changes which have affected the management of domestic animals and the very increase in the number of pets warrant a modernisation of the now outmoded Act of 1944 on the Prevention of Cruelty to Animals.

The basic concept of the new Animal Protection Act is that technology must adapt to meet the needs of the animals, not the reverse.

This naturally implies that animals' natural behaviour must be paramount. The emphasis of animal husbandry must be to keep the animals healthy and contented.

Particular attention is given to the management of domestic animals in the new Act. This is because of the economic interests which are inherent in animal

husbandry. As a result, the importance of not overlooking the animals themselves in any form of production has been given prominence.

Proposals:

- *Cattle shall be entitled to be put out to graze.*

Today, most milk cows are tethered in stalls. However, the cattle sheds which have been built in recent years are better adapted to allow freedom of movement. The new proposal on freedom to graze applies to both tethered cattle and free grazing cattle.

This proposal relates to all animals in new production. For animals in existing cattle sheds, the new proposal is to take effect as soon as it may be practical. In turn, this relates to such matters as the availability of suitable grazing pasture. One alternative could be to allow the animals to graze in outdoor paddocks. When the cows are housed indoors, they are to have bedding in the stall, to protect them from injury.

- *Poultry are to be let out of cramped battery cages.*

Hens for egg production are currently battery caged. Four hens are cramped together in a cage which allows each hen a floorspace of roughly the size of a school exercise book. The cages fail to meet even the most basic requirements of the hens—for moving, scratching, flapping, bathing and preening—and for laying.

Such a system is unacceptable and must, therefore, be finally phased-out over the next ten year period. In future, no form of animal husbandry which is so insensitive to the needs of the animals will be permitted.

At present, no viable alternative system has been developed. Research in this area is currently underway, above all in Switzerland.

Before a new system can be introduced, the environment in the cages must be improved, for example by reducing the number of caged birds from four to three per cage. Perches and stones should be provided in the cages.

- *Sows are not to be tethered. They are to have sufficient room to move.*

The system of tethering sows is to be discontinued, since it is counter to the principle of answering to the natural behaviour of the animal.

It is also important that the sows' stalls be designed in such a manner that the animals have access to separate spaces for bedding, eating and voiding.

It is important to provide large space for pigs for slaughter, so as to avoid aggressive behaviour. The environment in the stalls must also be improved. Access to straw is vital to the well-being of the pigs.

- *Technology must be adapted to the animals, not the reverse. As a result, it must be possible to test new technology from the viewpoint of animal safety and protection before being put into practice.*

Animals are entitled to be reared in environments in which production has been adapted to them and their needs. Methods of production which injure or exploit the animals, such as in so-called animal factories, are unacceptable.

A suitable stall or pen environment and appropriate management methods are indispensable for contented animals. With this in mind, all animal stalls and pens are already subject to inspection before a certificate of worthiness can be issued.

In future, all new technology is to be subject to prior testing before approval. This prior testing forms the basis of an appraisal of the new technology in terms of animal health and animal protection, before it can be put into practice.

- *All slaughtering must be as humane as possible.*

The new Animal Protection Act includes a specific stipulation to the effect that animals are to be spared suffering while being led to slaughter and during slaughter.

- *In future, the government is empowered to forbid the use of genetic engineering and growth hormones which may mutate our domestic animals.*

There are no laws currently in force which govern how genetic engineering may be applied to our domestic animals, with the exception of the rules on ethical examination of animal experiments.

Genetic engineering has yet to be applied within the field of domestic animal management. However, legislation must encompass the powers to meet with such an eventuality. As a result, the government will be enabled to forbid the use of genetic engineering on animals, or the administration of hormones or other substances which may affect animals, other than for veterinary purposes.

- *Permission will now be necessary for pelt and fur farms.*

Pelt and fur farming entails that animals are held captive under extreme conditions for the animals themselves. The mink and the fox, both predators by their very nature, are most generally the animals involved, and, hunters that they are, they need to be able to move freely. It asks much of the breeder, in both animal understanding and in material capability, to cage such animals, and, as a result, statutory permission is now required for anyone breeding pelt and fur animals on a professional or semi-professional scale.

- *Doping of animals for competitions and events is prohibited.*

Recent years have seen the introduction of measures to improve or hamstring the performance of competition horses—doping.

Doping in all its forms and names is a serious problem for animal protection, and, as a result, every such operation has now been outlawed by the new Animal Protection Act.

- *Permission must be obtained for all those engaged in animal experiments.*

Such institutions as departments of advanced technology and hospitals have hitherto been exempt from applying for permission to conduct animal experiments. The new Act will require that permission be sought by all. In addition, a legally liable head of operations must be named in the application.

- *Stiffer punishments for breaches of the law.*

Anyone found to have been in breach of the new Animal Protection Act may be punishable by fines or imprisonment of up to one year. This raises the level of sanctions in comparison with the Act of 1944, under which the maximum penalty was a fine.

It has been proposed that the new Act enter into force on July 1, 1988.

EXTRACTS FROM THE CRIMINAL CODE OF CANADA**Cattle and Other Animals****INJURING OR ENDANGERING CATTLE**

444. Every one who wilfully

- (a) kills, maims, wounds, poisons or injures cattle, or
- (b) places poison in such a position that it may easily be consumed by cattle, is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years. R.S., c. C-34, s. 400.

INJURING OR ENDANGERING OTHER ANIMALS

445. Every one who wilfully and without lawful excuse

- (a) kills, maims, wounds, poisons or injures dogs, birds or animals that are not cattle and are kept for a lawful purpose, or
- (b) places poison in such a position that it may easily be consumed by dogs, birds or animals that are not cattle and are kept for a lawful purpose, is guilty of an offence punishable on summary conviction. R.S., c. C-34, s. 401.

Cruelty to Animals

CAUSING UNNECESSARY SUFFERING—Punishment—Failure to exercise reasonable care as evidence—Presence at baiting as evidence—Order of prohibition—Breach of order.

446. (1) Every one commits an offence who

- (a) wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or a bird;
- (b) by wilful neglect causes damage or injury to animals or birds while they are being driven or conveyed;
- (c) being the owner or the person having the custody or control of a domestic animal or a bird or an animal or a bird wild by nature that is in captivity, abandons it in distress or wilfully neglects or fails to provide suitable and adequate food, water, shelter and care for it;
- (d) in any manner encourages, aids or assists at the fighting or baiting of animals or birds;
- (e) wilfully, without reasonable excuse, administers a poisonous or an injurious drug or substance to a domestic animal or bird or an animal or a bird wild by nature that is kept in captivity or, being the owner of such an animal or a bird, wilfully permits a poisonous or an injurious drug or substance to be administered to it;
- (f) promotes, arranges, conducts, assists in, receives money for or takes part in any meeting, competition, exhibition, pastime, practice, display or event at or in the course of which captive birds are liberated by hand, trap, contrivance or any other means for the purpose of being shot when they are liberated; or
- (g) being the owner, occupier, or person in charge of any premises, permits the premises or any part thereof to be used for a purpose mentioned in paragraph (f).

(2) Every one who commits an offence under subsection (1) is guilty of an offence punishable on summary conviction.

(3) For the purposes of proceedings under paragraph (1)(a) or (b), evidence that a person failed to exercise reasonable care or supervision of an ani-

mal or a bird thereby causing it pain, suffering, damage or injury is, in the absence of any evidence to the contrary, proof that the pain, suffering, damage or injury was caused or was permitted to be caused wilfully or was caused by wilful neglect, as the case may be.

(4) For the purpose of proceedings under paragraph (1)(d), evidence that an accused was present at the fighting or baiting of animals or birds is, in the absence of any evidence to the contrary, proof that he encouraged, aided or assisted at the fighting or baiting.

(5) Where an accused is convicted of an offence under subsection (1), the court may, in addition to any other sentence that may be imposed for the offence, make an order prohibiting the accused from owning or having the custody or control of an animal or a bird during any period not exceeding two years.

(6) Every one who owns or has the custody or control of an animal or a bird while he is prohibited from doing so by reason of an order made under subsection (5) is guilty of an offence punishable on summary conviction. R.S., c. C-34, s. 402; 1974-75-76, c. 93, s. 35.

KEEPING COCKPIT—Confiscation

447. (1) Every one who builds, makes, maintains or keeps a cockpit on premises that he owns or occupies, or allows a cockpit to be built, made, maintained or kept on such premises is guilty of an offence punishable on summary conviction.

(2) A peace officer who finds cocks in a cockpit or on premises where a cockpit is located shall seize them and take them before a justice who shall order them to be destroyed. R.S., c. C-34, s. 403.

REGULATION OF STEEL JAW TRAPS IN EUROPE

BELGIUM: Steel jaw traps may be used to protect property and control pests.

DENMARK: Total ban on steel jaw traps. Only box traps are permitted.

FRANCE: Steel jaw traps may only be used for pest control under special license.

GERMANY: Use of steel jaw traps is prohibited.

GREECE: Use of all traps is prohibited, though special approval may be requested for scientific purposes.

IRELAND: Use of steel jaw traps is prohibited.

ITALY: Steel jaw traps may be used to capture animals classified as pests; traps must be checked twice a day.

LUXEMBOURG: Use of steel jaw traps is permitted; however, a new draft law to ban their use has been introduced.

NETHERLANDS: Use of steel jaw traps is prohibited, except for use on pest species.

PORTUGAL: Steel jaw traps may only be used in defense of one's property, with permission from the government.

SPAIN: Steel jaw traps are used for the capture of many species.

UNITED KINGDOM: Use of steel jaw traps is prohibited.

SUMMARY OF FOREIGN LABORATORY ANIMAL WELFARE LAWS

The British Animals (Scientific Procedures) Act of 1986, which replaced the British Act of 1876, the French Decree of 1987 and the German law of 1987 regulating animal experimentation are given in full. They span the period in which such legislation has been enacted.

Other nations having legislation of this character include Australia, Austria, Bahamas, Belgium, British Honduras, Colombia, Denmark, Eire, Fiji, Finland, France, Greece, India, Italy, Jamaica, Kenya, Luxembourg, Netherlands, Norway, Portugal, St. Vincent, Seychelles, Spain, Sweden, Switzerland, Uganda, West Germany, and Zanzibar.

Less specific legislation on laboratory animal welfare exists in Argentina, Czechoslovakia, Iran, Monserrat, Norway, Poland, South Africa, and the U.S.S.R.

BRITISH ANIMALS (SCIENTIFIC PROCEDURES) ACT 1986 **1986 Chapter 14**

An Act to make new provision for the protection of animals used for experimental or other scientific purposes. [20th May 1986]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Preliminary

1. (1) Subject to the provisions of this section, "a protected animal" for the purposes of this Act means any living vertebrate other than man.

(2) Any such vertebrate in its foetal, larval or embryonic form is a protected animal only from the stage of its development when—

- (a) in the case of a mammal, bird or reptile, half the gestation or incubation period for the relevant species has elapsed; and
- (b) in any other case, it becomes capable of independent feeding.

(3) The Secretary of State may by order—

- (a) extend the definition of protected animal so as to include invertebrates of any description;
- (b) alter the stage of development specified in subsection (2) above;
- (c) make provision in lieu of subsection (2) above as respects any animal which becomes a protected animal by virtue of an order under paragraph (a) above.

(4) For the purposes of this section an animal shall be regarded as contin-

uing to live until the permanent cessation of circulation or the destruction of its brain.

(5) In this section "vertebrate" means any animal of the Sub-phylum Vertebrata of the Phylum Chordata and "invertebrate" means any animal not of that Sub-phylum.

2. (1) Subject to the provisions of this section, "a regulated procedure" for the purposes of this Act means any experimental or other scientific procedure applied to a protected animal which may have the effect of causing that animal pain, suffering, distress or lasting harm.

(2) An experimental or other scientific procedure applied to an animal is also a regulated procedure if—

- (a) it is part of a series or combination of such procedures (whether the same or different) applied to the same animal; and
- (b) the series or combination may have the effect mentioned in subsection (1) above; and
- (c) the animal is a protected animal throughout the series or combination or in the course of it attains the stage of its development when it becomes such an animal.

(3) Anything done for the purpose of, or liable to result in, the birth or hatching of a protected animal is also a regulated procedure if it may as respects that animal have the effect mentioned in subsection (1) above.

(4) In determining whether any procedure may have the effect mentioned in subsection (1) above the use of an anaesthetic or analgesic, decerebration and any other procedure for rendering an animal insentient shall be disregarded; and the administration of an anaesthetic or analgesic to a protected animal, or decerebration or any other such procedure applied to such an animal, for the purposes of any experimental or other scientific procedure shall itself be a regulated procedure.

(5) The ringing, tagging or marking of an animal, or the application of any other humane procedure for the sole purpose of enabling an animal to be identified, is not a regulated procedure if it causes only momentary pain or distress and no lasting harm.

(6) The administration of any substance or article to an animal by way of a medicinal test on animals as defined in subsection (6) of section 32 of the Medicines Act 1968 is not a regulated procedure if the substance or article is administered in accordance with the provisions of subsection (4) of that section or of an order under section 35(8)(b) of that Act.

(7) Killing a protected animal is a regulated procedure only if it is killed for experimental or other scientific use, the place where it is killed is a designated establishment and the method employed is not one appropriate to the animal under Schedule 1 to this Act.

(8) In this section references to a scientific procedure do not include references to any recognised veterinary, agricultural or animal husbandry practice.

(9) Schedule 1 to this Act may be amended by orders made by the Secretary of State.

Personal and project licences

3. No person shall apply a regulated procedure to an animal unless—

- (a) he holds a personal licence qualifying him to apply a regulated procedure of that description to an animal of that description;

- (b) the procedure is applied as part of a programme of work specified in a project licence authorising the application, as part of that programme, of a regulated procedure of that description to an animal of that description; and
- (c) the place where the procedure is carried out is a place specified in the personal licence and the project licence.

4. (1) A personal licence is a licence granted by the Secretary of State qualifying the holder to apply specified regulated procedures to animals of specified descriptions at a specified place or specified places.

(2) An application for a personal licence shall be made to the Secretary of State in such form and shall be supported by such information as he may reasonably require.

(3) Except where the Secretary of State dispenses with the requirements of this subsection any such application shall be endorsed by a person who—

- (a) is himself the holder of a personal licence or a licence treated as such a licence by virtue of Schedule 4 to this Act; and

- (b) has knowledge of the biological or other relevant qualifications and of the training, experience and character of the applicant; and the person endorsing an application shall, if practicable, be a person occupying a position of authority at a place where the applicant is to be authorised by the licence to carry out the procedures specified in it.

(4) No personal licence shall be granted to a person under the age of eighteen.

(5) A personal licence shall continue in force until revoked but the Secretary of State shall review each personal licence granted by him at intervals not exceeding five years and may for that purpose require the holder to furnish him with such information as he may reasonably require.

5. (1) A project licence is a licence granted by the Secretary of State specifying a programme of work and authorising the application, as part of that programme, of specified regulated procedures to animals of specified descriptions at a specified place or specified places.

(2) A project licence shall not be granted except to a person who undertakes overall responsibility for the programme to be specified in the licence.

(3) A project licence shall not be granted for any programme unless the Secretary of State is satisfied that it is undertaken for one or more of the following purposes—

- (a) the prevention (whether by the testing of any product or otherwise) or the diagnosis or treatment of disease, ill-health or abnormality, or their effects, in man, animals or plants;
- (b) the assessment, detection, regulation or modification of physiological conditions in man, animals or plants;
- (c) the protection of the natural environment in the interests of the health or welfare of man or animals;
- (d) the advancement of knowledge in biological or behavioural sciences;
- (e) education or training otherwise than in primary or secondary schools;
- (f) forensic enquiries;
- (g) the breeding of animals for experimental or other scientific use.

(4) In determining whether and on what terms to grant a project licence

the Secretary of State shall weigh the likely adverse effects on the animals concerned against the benefit likely to accrue as a result of the programme to be specified in the licence.

(5) The Secretary of State shall not grant a project licence unless he is satisfied that the applicant has given adequate consideration to the feasibility of achieving the purpose of the programme to be specified in the licence by means not involving the use of protected animals.

(6) The Secretary of State shall not grant a project licence authorising the use of cats, dogs, primates or equidae unless he is satisfied that animals of no other species are suitable for the purposes of the programme to be specified in the licence or that it is not practicable to obtain animals of any other species that are suitable for those purposes.

(7) Unless revoked and subject to subsection (8) below, a project licence shall continue in force for such period as is specified in the licence and may be renewed for further periods but (without prejudice to the grant of a new licence in respect of the programme in question) no such licence shall be in force for more than five years in all.

(8) A project licence shall terminate on the death of the holder but if—

- (a) the holder of a certificate under section 6 below in respect of a place specified in the licence; or
- (b) where by virtue of subsection (2) of that section the licence does not specify a place in respect of which there is such a certificate, the holder of a personal licence engaged on the programme in question,

notifies the Secretary of State of the holder's death within seven days of its coming to his knowledge the licence shall, unless the Secretary of State otherwise directs, continue in force until the end of the period of twenty-eight days beginning with the date of the notification.

Designated establishments

6. (1) Subject to subsection (2) below, no place shall be specified in a project licence unless it is a place designated by a certificate issued by the Secretary of State under this section as a scientific procedure establishment.

(2) Subsection (1) above shall not apply in any case in which it appears to the Secretary of State that the programme or procedures authorised by the licence require him to specify a different place.

(3) An application for a certificate in respect of a scientific procedure establishment shall be made to the Secretary of State in such form and shall be supported by such information as he may reasonably require.

(4) A certificate shall not be issued under this section—

- (a) except to a person occupying a position of authority at the establishment in question; and
- (b) unless the application nominates for inclusion in the certificate pursuant to subsection (5) below a person or persons appearing to the Secretary of State to be suitable for that purpose.

(5) A certificate under this section shall specify—

- (a) a person to be responsible for the day-to-day care of the protected animals kept for experimental or other scientific purposes at the establishment; and

- (b) a veterinary surgeon or other suitably qualified person to provide advice on their health and welfare;

and the same person may, if the Secretary of State thinks fit, be specified under both paragraphs of this subsection.

(6) If it appears to any person specified in a certificate pursuant to subsection (5) above that the health or welfare of any such animal as is mentioned in that subsection gives rise to concern he shall—

- (a) notify the person holding a personal licence who is in charge of the animal; or
- (b) if there is no such person or it is not practicable to notify him, take steps to ensure that the animal is cared for and, if it is necessary for it to be killed, that it is killed by a method which is appropriate under Schedule 1 to this Act or approved by the Secretary of State.

(7) In any case to which subsection (6) above applies the person specified in the certificate pursuant to paragraph (a) of subsection (5) above may also notify the person (if different) specified pursuant to paragraph (b) of that subsection; and the person specified pursuant to either paragraph of that subsection may also notify one of the inspectors appointed under this Act.

(8) A certificate under this section shall continue in force until revoked.

7. (1) A person shall not at any place breed for use in regulated procedures (whether there or elsewhere) protected animals of a description specified in Schedule 2 to this Act unless that place is designated by a certificate issued by the Secretary of State under this section as a breeding establishment.

(2) A person shall not at any place keep any such protected animals which have not been bred there but are to be supplied for use elsewhere in regulated procedures unless that place is designated by a certificate issued by the Secretary of State under this section as a supplying establishment.

(3) An application for a certificate in respect of a breeding or supplying establishment shall be made to the Secretary of State in such form and shall be supported by such information as he may reasonably require.

(4) A certificate shall not be issued under this section unless the application nominates for inclusion in the certificate pursuant to subsection (5) below a person or persons appearing to the Secretary of State to be suitable for that purpose.

(5) A certificate under this section shall specify—

- (a) a person to be responsible for the day-to-day care of the animals bred or kept for breeding at the establishment or, as the case may be, kept there for the purpose of being supplied for use in regulated procedures; and
- (b) a veterinary surgeon or other suitably qualified person to provide advice on their health and welfare;

and the same person may, if the Secretary of State thinks fit, be specified under both paragraphs of this subsection.

(6) If it appears to any person specified in a certificate pursuant to subsection (5) above that the health or welfare of any such animal as is mentioned in that subsection gives rise to concern he shall take steps to ensure that it is cared for and, if it is necessary for it to be killed, that it is killed by a method appropriate under Schedule 1 to this Act or approved by the Secretary of State.

(7) In any case to which subsection (6) above applies the person specified in the certificate pursuant to paragraph (a) of subsection (5) above

may also notify the person (if different) specified pursuant to paragraph (b) of that subsection; and the person specified pursuant to either paragraph of that subsection may also notify one of the inspectors appointed under this Act.

(8) A certificate under this section shall continue in force until revoked.

(9) Schedule 2 to this Act may be amended by orders made by the Secretary of State.

8. The holder of a certificate issued under section 6 or 7 above shall pay such periodical fees to the Secretary of State as may be prescribed by or determined in accordance with an order made by him.

Licences and designation certificates; general provisions

9. (1) Before granting a licence or issuing a certificate under this Act the Secretary of State shall consult one of the inspectors appointed under this Act and may also consult an independent assessor or the Animal Procedures Committee established by this Act.

(2) Where the Secretary of State proposes to consult an independent assessor he shall notify the applicant of that fact, and in selecting the assessor he shall have regard to any representations made by the applicant.

10. (1) Subject to the provisions of this section, a licence or certificate under this Act may contain such conditions as the Secretary of State thinks fit.

(2) The conditions of a personal licence shall include—

(a) a condition to the effect that the holder shall take precautions to prevent or reduce to the minimum consistent with the purposes of the authorised procedures any pain, distress or discomfort to the animals to which those procedures may be applied; and

(b) an inviolable termination condition, that is to say, a condition specifying circumstances in which a protected animal which is being or has been subjected to a regulated procedure must in every case be immediately killed by a method appropriate to the animal under Schedule 1 to this Act or by such other method as may be authorised by the licence.

(3) The conditions of a project licence shall, unless the Secretary of State considers that an exception is justified, include a condition to the effect—

(a) that no cat or dog shall be used under the licence unless it has been bred at and obtained from a designated breeding establishment; and

(b) that no other protected animal of a description specified in Schedule 2 to this Act shall be used under the licence unless it has been bred at a designated breeding establishment or obtained from a designated supplying establishment;

but no exception shall be made from the condition required by paragraph (a) above unless the Secretary of State is satisfied that no animal suitable for the purpose of the programme specified in the licence can be obtained in accordance with that condition.

(4) If the conditions of a personal licence permit the holder to use assistance to perform, under his direction, tasks not requiring technical knowledge nothing done by an assistant in accordance with such a condition shall constitute a contravention of section 3 above.

(5) The conditions of a certificate issued under section 6 above shall include a condition prohibiting the killing otherwise than by a method which is

appropriate under Schedule 1 to this Act or approved by the Secretary of State of any protected animal kept at the establishment for experimental or other scientific purposes but not subjected to a regulated procedure or required to be killed by virtue of section 15 below; and the conditions of a certificate issued under section 7 above shall include a condition prohibiting the killing otherwise than by such a method of an animal of a description specified in Schedule 2 to this Act which is bred or kept for breeding or, as the case may be, kept at the establishment for the purposes of being supplied for use in regulated procedures but not used, or supplied for use, for that purpose.

(6) The conditions of a certificate issued under section 6 or 7 above shall include conditions requiring the holder of the certificate—

- (a) to secure that a person competent to kill animals in the manner specified by conditions imposed in accordance with subsection (5) above will be available to do so; and
- (b) to keep records as respects the source and disposal of and otherwise relating to the animals kept at the establishment for experimental or other scientific purposes or, as the case may be, bred or kept for breeding there or kept there for the purposes of being supplied for use in regulated procedures.

(7) Breach of a condition in a licence or certificate shall not invalidate the licence or certificate but shall be a ground for its variation or revocation.

11. A licence or certificate under this Act may be varied or revoked by the Secretary of State—

- (a) on the ground mentioned in section 10(7) above;
- (b) in any other case in which it appears to the Secretary of State appropriate to do so; or
- (c) at the request of the holder.

12. (1) Where the Secretary of State proposes—

- (a) to refuse a licence or certificate under this Act; or
- (b) to vary or revoke such a licence or certificate otherwise than at the request of the holder,

he shall serve on the applicant or the holder a notice of his intention to do so.

(2) The notice shall state the reasons for which the Secretary of State proposes to act and give particulars of the rights conferred by subsection (3) below.

(3) A person on whom a notice is served under subsection (1) above may make written representations and, if desired, oral representations to a person appointed for that purpose by the Secretary of State if before such date as is specified in the notice (not being less than twenty-eight days after the date of service) he notifies the Secretary of State of his wish to do so.

(4) The holder of a licence or certificate who is dissatisfied with any condition contained in it may, if he notifies the Secretary of State of his wish to do so, make written representations and, if desired, oral representations to a person appointed for that purpose by the Secretary of State; but the making of such representations shall not affect the operation of any condition unless and until it is varied under section 11 above.

(5) The person appointed to receive any representations under this section shall be a person who holds or has held judicial office in the United Kingdom or a barrister, solicitor or advocate of at least seven years' standing and the

Secretary of State may, if he thinks fit, appoint a person with scientific or other appropriate qualifications to assist the person receiving the representations in his consideration of them.

(6) The person appointed to receive any such representations shall after considering them make a report to the Secretary of State; and the Secretary of State shall furnish a copy of the report to the person who made the representations and take it into account in deciding whether to refuse the application or to vary or revoke the licence or certificate, as the case may be.

(7) The Secretary of State may by order make rules with respect to the procedure to be followed in the making and consideration of representations under this section, including provision requiring any such representations to be made within a specified time.

(8) A notice under subsection (1) above may be served either personally or by post.

13. (1) If it appears to the Secretary of State to be urgently necessary for the welfare of any protected animals that a licence or certificate under this Act should cease to have effect forthwith he shall by notice served on the holder suspend its operation for a period not exceeding three months.

(2) If during that period a notice of proposed variation or revocation of the licence or certificate is served under section 12 above but at the end of that period—

- (a) the time for notifying the Secretary of State under subsection (3) of that section has not expired; or
- (b) representations are to be or are being made in accordance with that subsection; or
- (c) such representations have been made but the Secretary of State has not received or has not completed his consideration of the report of the person to whom the representations were made,

he may by notice served on the holder further suspend the licence or certificate until he is able to decide whether to vary or revoke it but no further suspension shall be for longer than three months at a time.

(3) A notice under this section may be served personally or by post.

Additional controls

14. (1) Where a protected animal—

- (a) has been subjected to a series of regulated procedures for a particular purpose; and
- (b) has been given a general anaesthetic for any of those procedures and allowed to recover consciousness,

it shall not be used for any further regulated procedures.

(2) Subsection (1) above shall not preclude the use of an animal with the consent of the Secretary of State if—

- (a) the procedure, or each procedure, for which the anaesthetic was given consisted only of surgical preparation essential for a subsequent procedure; or
- (b) the anaesthetic was administered solely to immobilise the animal; or
- (c) the animal is under general anaesthesia throughout the further

procedures and not allowed to recover consciousness.

(3) Where a protected animal—

- (a) has been subjected to a series of regulated procedures for a particular purpose; but
- (b) has not been given a general anaesthetic for any of those procedures,

it shall not be used for any further regulated procedures except with the consent of the Secretary of State.

(4) Any consent for the purposes of this section may relate to a specified animal or to animals used in specified procedures or specified circumstances.

15. (1) Where a protected animal—

- (a) has been subjected to a series of regulated procedures for a particular purpose; and
- (b) at the conclusion of the series is suffering or likely to suffer adverse effects,

the person who applied those procedures, or the last of them, shall cause the animal to be immediately killed by a method appropriate to the animal under Schedule 1 to this Act or by such other method as may be authorised by the personal licence of the person by whom the animal is killed.

(2) Subsection (1) above is without prejudice to any condition of a project licence requiring an animal to be killed at the conclusion of a regulated procedure in circumstances other than those mentioned in that subsection.

16. (1) No person shall carry out any regulated procedure as an exhibition to the general public or carry out any such procedure which is shown live on television for general reception.

(2) No person shall publish a notice or advertisement announcing the carrying out of any regulated procedure in a manner that would contravene subsection (1) above.

17. No person shall in the course of a regulated procedure—

- (a) use any neuromuscular blocking agent unless expressly authorised to do so by the personal and project licences under which the procedure is carried out; or
- (b) use any such agent instead of an anaesthetic.

The inspectorate and the committee

18. (1) The Secretary of State shall, with the consent of the Treasury as to numbers and remuneration, appoint as inspectors for the purposes of this Act persons having such medical or veterinary qualifications as he thinks requisite.

(2) It shall be the duty of an inspector—

- (a) to advise the Secretary of State on applications for personal and project licences, on requests for their variation or revocation and on their periodical review;
- (b) to advise him on applications for certificates under this Act and on requests for their variation or revocation;
- (c) to visit places where regulated procedures are carried out for the

purpose of determining whether those procedures are authorised by the requisite licences and whether the conditions of those licences are being complied with;

- (d) to visit designated establishments for the purpose of determining whether the conditions of the certificates in respect of those establishments are being complied with;
- (e) to report to the Secretary of State any case in which any provision of this Act or any condition of a licence or certificate under this Act has not been or is not being complied with and to advise him on the action to be taken in any such case.

(3) If an inspector considers that a protected animal is undergoing excessive suffering he may require it to be immediately killed by a method appropriate to the animal under Schedule 1 to this Act or by such other method as may be authorised by any personal licence held by the person to whom the requirement is addressed.

19. (1) There shall be a committee to be known as the Animal Procedures Committee.

(2) The Committee shall consist of a chairman and at least twelve other members appointed by the Secretary of State.

(3) Of the members other than the chairman—

- (a) at least two-thirds shall be persons having such a qualification as is mentioned in subsection (4) below; and
- (b) at least one shall be a barrister, solicitor or advocate,

but so that at least half of those members are persons who neither hold nor within the previous six years have held any licence under this Act or under the Cruelty to Animals Act 1876; and in making appointments to the Committee the Secretary of State shall have regard to the desirability of ensuring that the interests of animal welfare are adequately represented.

(4) The qualifications referred to in subsection (3) (a) above are full registration as a medical practitioner, registration as a veterinary surgeon or qualifications or experience in a biological subject approved by the Secretary of State as relevant to the work of the Committee.

(5) Members of the Committee shall be appointed for such periods as the Secretary of State may determine but no such period shall exceed four years and no person shall be reappointed more than once.

(6) Any member may resign by notice in writing to the Secretary of State; and the chairman may by such a notice resign his office as such.

(7) The Secretary of State may terminate the appointment of a member if he is satisfied that—

- (a) for a period of six months beginning not more than nine months previously he has, without the consent of the other members, failed to attend the meetings of the Committee;
- (b) he is an undischarged bankrupt or has made an arrangement with his creditors;
- (c) he is by reason of physical or mental illness, or for any other reason, incapable of carrying out his duties; or
- (d) he has been convicted of such a criminal offence, or his conduct has been such, that it is not in the Secretary of State's opinion fitting that he should remain a member.

(8) The Secretary of State may make payments to the chairman by way of remuneration and make payments to him and the other members in respect of expenses incurred by them in the performance of their duties.

(9) The Secretary of State may also defray any other expenses of the Committee.

20. (1) It shall be the duty of the Animal Procedures Committee to advise the Secretary of State on such matters concerned with this Act and his functions under it as the Committee may determine or as may be referred to the Committee by the Secretary of State.

(2) In its consideration of any matter the Committee shall have regard both to the legitimate requirements of science and industry and to the protection of animals against avoidable suffering and unnecessary use in scientific procedures.

(3) The Committee may perform any of its functions by means of sub-committees and may co-opt as members of any sub-committee any persons considered by the Committee to be able to assist that sub-committee in its work.

(4) The Committee may promote research relevant to its functions and may obtain advice or assistance from other persons with knowledge or experience appearing to the Committee to be relevant to those functions.

(5) The Committee shall in each year make a report on its activities to the Secretary of State who shall lay copies of the report before Parliament.

Miscellaneous and supplementary

21. (1) The Secretary of State shall publish information to serve as guidance with respect to the manner in which he proposes to exercise his power to grant licences and certificates under this Act and with respect to the conditions which he proposes to include in such licences and certificates.

(2) The Secretary of State shall issue codes of practice as to the care of protected animals and their use for regulated procedures and may approve such codes issued by other persons.

(3) The Secretary of State shall consult the Animal Procedures Committee before publishing or altering any information under subsection (1) above or issuing, approving, altering or approving any alteration in any code issued or approved under subsection (2) above.

(4) A failure on the part of any person to comply with any provision of a code issued or approved under subsection (2) above shall not of itself render that person liable to criminal or civil proceedings but—

(a) any such code shall be admissible in evidence in any such proceedings; and

(b) if any of its provisions appears to the court conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(5) The Secretary of State shall lay before Parliament—

(a) copies of any information published or code issued by him under subsection (1) or (2) above and of any alteration made by him in any such information or code; and

(b) copies of any code approved by him under subsection (2) above and of any alteration approved by him in any such code;

and if either House of Parliament passes a resolution requiring the information,

code or alteration mentioned in paragraph (a) above, or the approval mentioned in paragraph (b) above, to be withdrawn the Secretary of State shall withdraw it accordingly; and where he withdraws information published or a code issued by him or his approval of a code he shall publish information or issue or approve a code, as the case may be, in substitution for the information or code previously published, issued or approved.

(6) No resolution shall be passed by either House under subsection (5) above in respect of any information, code or alteration after the end of the period of forty days beginning with the day on which a copy of the information, code or alteration was laid before that House; but for the purposes of this subsection no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(7) The Secretary of State shall in each year publish and lay before Parliament such information as he considers appropriate with respect to the use of protected animals in the previous year for experimental or other scientific purposes.

22. (1) Any person who contravenes section 3 above shall be guilty of an offence and liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(2) Any person who, being the holder of a project licence—

- (a) procures or knowingly permits a person under his control to carry out a regulated procedure otherwise than as part of the programme specified in the licence; or
- (b) procures or knowingly permits a person under his control to carry out a regulated procedure otherwise than in accordance with that person's personal licence,

shall be guilty of an offence and liable to the penalties specified in subsection (1) above.

(3) Any person who—

- (a) contravenes section 7(1) or (2), 14, 15, 16 or 17 above; or
- (b) fails to comply with a requirement imposed on him under section 18(3) above,

shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding the fourth level on the standard scale or to both.

(4) A person shall not be guilty of an offence under section 3 or 17(a) above by reason only that he acted without the authority of a project licence if he shows that he reasonably believed, after making due enquiry, that he had such authority.

(5) A person guilty of an offence under section 1 of the Protection of Animals Act 1911 or section 1 of the Protection of Animals (Scotland) Act 1912 in respect of an animal at a designated establishment shall be liable to the penalties specified in subsection (1) above.

23. (1) A person is guilty of an offence if for the purpose of obtaining or as-

sisting another person to obtain a licence or certificate under this Act he furnishes information which he knows to be false or misleading in a material particular or recklessly furnishes information which is false or misleading in a material particular.

(2) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding the fourth level on the standard scale or to both.

24. (1) A person is guilty of an offence if otherwise than for the purpose of discharging his functions under this Act he discloses any information which has been obtained by him in the exercise of those functions and which he knows or has reasonable grounds for believing to have been given in confidence.

(2) A person guilty of an offence under this section shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

25. (1) If a justice of the peace or in Scotland a sheriff is satisfied by information on oath that there are reasonable grounds for believing that an offence under this Act has been or is being committed at any place, he may issue a warrant authorising a constable to enter that place if need be by such force as is reasonably necessary, to search it and to require any person found there to give his name and address.

(2) A warrant under this section may authorise a constable to be accompanied by an inspector appointed under this Act and shall require him to be accompanied by such an inspector if the place in question is a designated establishment.

(3) Any person who—

- (a) intentionally obstructs a constable or inspector in the exercise of his powers under this section; or
- (b) refuses on demand to give his name and address or gives a false name or address,

shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding the fourth level on the standard scale or to both.

26. (1) No proceedings for—

- (a) an offence under this Act; or
- (b) an offence under section 1 of the Protection of Animals Act 1911 which is alleged to have been committed in respect of an animal at a designated establishment,

shall be brought in England and Wales except by or with the consent of the Director of Public Prosecutions.

(2) Summary proceedings for an offence under this Act may (without prejudice to any jurisdiction exercisable apart from this subsection) be taken against any person at any place at which he is for the time being.

(3) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980, any information relating to an offence under this Act which is triable by a magistrates' court in England and Wales may be so tried if it is laid at

any time within three years after the commission of the offence and within six months after the date on which evidence sufficient in the opinion of the Director of Public Prosecutions to justify the proceedings comes to his knowledge.

(4) Notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975, summary proceedings for an offence under this Act may be commenced in Scotland at any time within three years after the commission of the offence and within six months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge; and subsection (3) of that section shall apply for the purposes of this subsection as it applies for the purposes of that section.

(5) For the purposes of subsections (3) and (4) above a certificate of the Director of Public Prosecutions or, as the case may be, the Lord Advocate as to the date on which such evidence as is there mentioned came to his knowledge shall be conclusive evidence of that fact.

27. (1) The Cruelty to Animals Act 1876 is hereby repealed.

(2) The enactments mentioned in Schedule 3 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of this Act.

(3) The Breeding of Dogs Act 1973 shall not apply to the breeding of dogs for use in regulated procedures if they are bred at a designated breeding establishment.

(4) Schedule 4 to this Act shall have effect with respect to the transitional matters there mentioned.

(5) The Secretary of State may by order make such further transitional provisions as he considers necessary or expedient.

28. (1) Any power of the Secretary of State to make an order under this Act shall be exercisable by statutory instrument.

(2) A statutory instrument containing an order under any of the foregoing provisions of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

29. (1) This Act applies to Northern Ireland with the following modifications:

(2) For any reference to the Secretary of State in any provision of this Act except sections 19 and 20(1) there shall be substituted a reference to the Department of Health and Social Services for Northern Ireland; and for the reference in section 18(1) above to the Treasury there shall be substituted a reference to the Department of Finance and Personnel for Northern Ireland.

(3) The functions of the Secretary of State under sections 19 and 20(1) shall be exercisable by him jointly with the Department of Health and Social Services for Northern Ireland; and any notice under section 19(6) or advice under section 20(1) may be given to either of them.

(4) In section 20(5) above for the reference to Parliament there shall be substituted a reference to the Northern Ireland Assembly; and in section 21 above—

(a) for the references to Parliament or either House of Parliament there shall be substituted references to the Assembly;

(b) in subsection (5) after the word "if" there shall be inserted the words "within the statutory period (within the meaning of the

Interpretation Act (Northern Ireland) 1954"); and

(c) subsection (6) shall be omitted.

(5) In sections 22(5) and 26(1)(b) above for the references to section 1 of the Protection of Animals Act 1911 there shall be substituted references to sections 13 and 14 of the Welfare of Animals Act (Northern Ireland) 1972.

(6) In section 25(1) above for the reference to information on oath there shall be substituted a reference to a complaint on oath.

(7) In section 26 above—

(a) in subsections (1) and (3) for the words "England and Wales" there shall be substituted the words "Northern Ireland";

(b) in subsections (1), (3) and (5) for the references to the Director of Public Prosecutions there shall be substituted references to the Director of Public Prosecutions for Northern Ireland; and

(c) in subsection (3) for the reference to section 127(1) of the Magistrates' Courts Act 1980 there shall be substituted a reference to Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981.

(8) In section 27(3) above for the reference to the Breeding of Dogs Act 1973 there shall be substituted a reference to Articles 12, 13 and 43 of the Dogs (Northern Ireland) Order 1983.

(9) Section 28 above shall not apply and any order made by the Department of Health and Social Services for Northern Ireland under this Act shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.

30. (1) This Act may be cited as the Animals (Scientific Procedures) Act 1986.

(2) In this Act—

"designated", in relation to an establishment, means designated by a certificate under section 6 or 7 above;

"personal licence" means a licence granted under section 4 above;

"place" includes any place within the seaward limits of the territorial waters of the United Kingdom, including any vessel other than a ship which is not a British ship;

"project licence" means a licence granted under section 5 above;

"protected animal" has the meaning given in section 1 above but subject to any order under subsection (3) of that section;

"regulated procedure" has the meaning given in section 2 above.

(3) This Act shall come into force on such date as the Secretary of State may by order appoint; and different dates may be appointed for different provisions or different purposes.

SCHEDULES

SCHEDULE 1

Standard Methods of Humane Killing

Method	Animals for which appropriate
A. Animals other than foetal, larval and embryonic forms	
1. Overdose of anaesthetic suitable for the species—	
(i) by injection	(i) All animals.
(ii) by inhalation	(ii) All animals up to 1 kg body-weight, except reptiles, diving birds and diving mammals.
(iii) by immersion.	(iii) Fishes; Amphibia up to 250 g bodyweight
(Followed by destruction of the brain in cold-blooded vertebrates and by exsanguination or by dislocation of the neck in warm blooded vertebrates except where <i>rigor mortis</i> has been confirmed.)	
2. Dislocation of the neck.	Rodents up to 500 g bodyweight other than guinea-pigs.
(Followed by destruction of the brain in fishes.)	
	Guinea pigs and lagomorphs up to 1 kg bodyweight.
	Birds up to 3 kg bodyweight.
	Fishes up to 250 g bodyweight.
3. Concussion by striking the back of the head.	Rodents up to 1 kg bodyweight.
	Birds up to 250 g bodyweight.
	Fishes.
(Followed by exsanguination or dislocation of the neck in rodents and birds and destruction of the brain in fishes.)	
4. Decapitation followed by destruction of the brain.	Cold-blooded vertebrates.
5. Exposure to carbon dioxide in a rising concentration using a suitable technique followed by exsanguination or by dislocation of the neck except where <i>rigor mortis</i> has been confirmed.	Rodents over 10 days of age up to 1½ kg bodyweight.
	Birds over 1 week of age up to 3 kg bodyweight.

B. Foetal, larval and embryonic forms

1. Overdose of anaesthetic suitable for the species—

(i) by injection

(i) All animals.

(ii) by immersion.

(ii) Fishes

Amphibia.

2. Decapitation.

Mammals.

SCHEDULE 2

Animals to be Obtained only from Designated Breeding
or Supplying Establishments

Mouse

Hamster

Cat

Rat

Rabbit

Primate

Guinea-pig

Dog

SCHEDULE 3

Consequential Amendments

1. In section 1(3) of the Protection of Animals Act 1911 for the words "the Cruelty to Animals Act 1876" there shall be substituted the words "the Animals (Scientific Procedures) Act 1986".

2. In section 1(3) of the Protection of Animals (Scotland) Act 1912 for the words "the Cruelty to Animals Act 1876" there shall be substituted the words "the Animals (Scientific Procedures) Act 1986".

3. In paragraph 1 of Schedule 1 to the Protection of Animals (Anaesthetics) Act 1954 for the words "Any experiment duly authorised under the Cruelty to Animals Act 1876" there shall be substituted the words "Any procedure duly authorised under the Animals (Scientific Procedures) Act 1986".

4. In section 12 of the Pests Act 1954 for the words "any experiment duly authorised under the Cruelty to Animals Act 1876" there shall be substituted the words "any procedure duly authorised under the Animals (Scientific Procedures) Act 1986".

5. In section 19(4)(a) of the Veterinary Surgeons Act 1966 for the words "any experiment duly authorised under the Cruelty to Animals Act 1876" there shall be substituted the words "any procedure duly authorised under the Animals (Scientific Procedures) Act 1986".

6. In section 1(2A)(b) of the Slaughter of Poultry Act 1967 for the words "an experiment in respect of which restrictions are imposed by the Cruelty to Animals Act 1876, being an experiment performed subject to any restrictions so imposed" there shall be substituted the words "a procedure duly authorised under the Animals (Scientific Procedures) Act 1986".

7. In section 1(2) of the Agriculture (Miscellaneous Provisions) Act 1968 for the words "the Cruelty to Animals Act 1876" there shall be substituted the words "the Animals (Scientific Procedures) Act 1986".

8. In sections 1(2) and 15(a) of, and paragraph 1 of Schedule 1 to, the Welfare of Animals Act (Northern Ireland) 1972 for the words "the Cruelty to Animals Act 1876" there shall be substituted the words "the Animals (Scientific Procedures) Act 1986".

9. In section 8(3) of the Badgers Act 1973 for the words from "something done" onwards there shall be substituted the words "doing anything which is authorised under the Animals (Scientific Procedures) Act 1986".

10. In section 5(4) of the Dangerous Wild Animals Act 1976 for the words "registered pursuant to the Cruelty to Animals Act 1876 for the purpose of performing experiments" there shall be substituted the words "which is a designated establishment within the meaning of the Animals (Scientific Procedures) Act 1986".

SCHEDULE 4

Transitional Provisions

Existing licences

1. Any licence which immediately before the coming into force of section 3 of this Act is in force under the Cruelty to Animals Act 1876 (in this Schedule referred to as "the previous Act") shall until such date as it would have expired under that Act be treated for the purposes of this Act as if it were a personal licence.

Current experiments

2. (1) Subject to sub-paragraph (2) below, any experiment or series of experiments which is lawfully in progress under the previous Act immediately before the coming into force of section 3 of this Act shall be treated for the purposes of this Act as authorised by a project licence.

(2) The Secretary of State may direct that sub-paragraph (1) above shall cease to have effect on such date as he may specify; and different dates may be specified in relation to different cases.

Existing certificates

3. A person shall not by virtue of paragraphs 1 or 2 above be entitled to do anything which would have been unlawful under the previous Act without such a certificate as is mentioned in paragraph (2) or (3) of the proviso to section 3 of that Act or in section 5 of that Act unless immediately before the coming into force of section 3 of this Act he holds the appropriate certificate under that Act.

Registered premises

4. Until such date as the Secretary of State may direct there shall be treated as a designated scientific procedure establishment for the purposes of this Act any place registered under the previous Act or approved by the Secretary of State.

Inspectors

5. Any person who at the coming into force of section 18 of this Act holds office as an inspector under the previous Act shall be treated for the purposes of this Act as an inspector appointed under that section.

SUMMARY OF 1987 FRENCH DECREE ON EXPERIMENTATION

CHAPTER I

Experiments and Experimenters

Section 1

Experiments

Article 1 - Experiments or research performed on live animals are legal when they meet two conditions: one, they are necessary and cannot usefully be replaced by other experimental methods, and two, they are performed for the following purposes:

- a. Diagnosis, prevention and treatment of diseases or other abnormalities found in humans, animals or plants;
- b. Testing of the action, effectiveness and toxicity of medications and other biological and chemical substances and their compounds, including radio elements, and testing of material used in treatment of humans and animals;
- c. Control and evaluation of the physiological parameters of humans and animals;
- d. Quality control of food substances;
- e. Basic and applied research;
- f. Higher education;
- g. Technical and occupational training in career fields that entail the performance of experiments on animals or the treatment and care of animals;
- h. Environmental protection.

Article 2 - The following are not considered to be experiments for the purposes of this decree:

- a. Those performed on invertebrate animals and on embryos of oviparous vertebrates;
- b. Those which consist of observation of animals under painless conditions;
- c. Treatment related to non-experimental farming or veterinary practice.

Article 3 - Experiments on live animals which may cause them pain must be performed under general or local anesthetic or after equivalent analgesic procedures, except when the administration of anesthetic or analgesic is believed to be more traumatic for the animals than the experiment itself.

Experiments which are incompatible with the use of anesthetic or analgesics shall be restricted to the bare minimum. Unless there is exceptional justification, an animal may not be subjected to more than one painful operation without anesthetic or analgesic.

Article 4 - Animals shall not be kept alive after experiments if they will suffer lasting or permanent pain, or permanent or irreversible damage. In such cases, animals shall be destroyed while still anesthetized, or as soon as possible after an experiment performed without anesthetic. If an animal is kept alive, it shall be given the care necessary to alleviate its suffering as soon as the experiment is concluded.

Section 2

Experimenters

Article 5 - Any person who performs experiments on animals must have authorization by name, granted in conformity with the conditions set out in Article 10 *et seq.* of this decree, from the Minister of Agriculture, and in the absence of such authorization, may work only under the direction and supervision of a person who has such authorization.

Authorization may be general or specific. Authorized persons and persons who work under their direction and supervision may perform only the experiments allowed by the authorization.

Article 6 - Experimenters may only perform their activities in the facilities and laboratories and within the installations of an experimental facility which meet the criteria stipulated in Chapters III and IV of this decree.

CHAPTER II

Laboratory Animals and the Protection Thereof

Section 1

Laboratory Animals

Article 7 - All species of animals may be used for experiments, subject to the restrictions contained in the laws and regulations applicable to protected species.

The Minister of Agriculture, the minister responsible for research and the minister responsible for environmental protection jointly issue the list of species that experimental facilities may only acquire from breeding establishments approved under the terms of Chapters III or IV of this decree, in cases where the experimental facility does not itself breed the animal it uses. This list and its updates are published in the *Official Gazette* of the French Republic.

Article 8 - When application of the terms of paragraph two of Article 7 prevents an experimental facility from acquiring a sufficient quantity of animals for the purpose of its research, such facility may:

- a. Have recourse to a supply source approved under the terms of Chapters

III or IV of this decree;

b. Have recourse to an occasional supplier, contingent upon authorization, with justification, by the Commissioner of the Republic in charge of the site of experimentation.

The donation of an animal by a private agent for purposes of scientific research, directly to an experimental facility which breeds its own animals, to a breeding facility of laboratory animals, or to a supplier of laboratory animals, may only be made without compensation. The above-cited establishments are under no obligation to accept animals offered.

Section 2

Protection of Laboratory Animals

Article 9 - The competent authorities and the personnel of experimental facilities, or establishments that breed or supply laboratory animals, are bound, in their treatment of animals in their care, by the obligations contained in the provisions of Article 1 of the above-cited decree of October 1, 1980.

Moreover, weaned dogs, cats and primates held in such establishments must be identified by an individual and permanent mark.

CHAPTER III

Authorization, Permit and Declaration Procedures

Section 1

Authorization

Article 10 - The application for experimentation authorization must be submitted to the Minister of Agriculture and sent by certified mail with a request for notification of delivery. A copy of the application must be submitted to the minister responsible for the field of activity of the applicant.

A joint order of the Minister of Agriculture and the ministers in charge of research, higher education, national education, health, industry and nature conservation establishes the list of diplomas and certificates which are required for experimentation authorization.

The application should include documentation which shows that the applicant has not been convicted of violations of the legal and regulatory provisions governing the protection of animals and the environment, nor been subject to criminal or disciplinary actions for dishonorable or unethical behavior.

Article 11 - The Minister of Agriculture is authorized to restrict the scope of the requested authorization or to impose any condition he deems fit.

In the absence of express authorization or a denial with cause from the Minister of Agriculture within two months following the date of receipt of the application, the authorization is considered to be granted.

Article 12 - The experimentation authorization is valid for a period of ten years and renewable by tacit consent.

The authorization is no longer in effect if the authorized person ceases to

perform the authorized activity or no longer performs such activity under the conditions under which such authorization was granted.

When the provisions set out in Chapter I and paragraph 2 of Article 10 of this decree have been violated, the Minister of Agriculture may revoke the experimentation authorization, temporarily or definitively, without prejudice to any criminal prosecution of the authorized person or of persons acting under his direction and supervision. He may also modify the scope of the authorization.

When serious and repeated violations of those provisions have been confirmed by enforcement agents qualified for that purpose, the Commissioner of the Republic may suspend the authorization, which he must then report to the Minister of Agriculture.

Article 13 - The Minister of Agriculture maintains an updated list of persons authorized to conduct animal experiments. He reports annually to other interested ministers on authorizations he has granted, modified or revoked.

Section 2

Permit for Experimentation Establishments

Article 14 - Every establishment that conducts experiments on animals must submit a permit application by certified mail with a request for notification of delivery, jointly to the Minister of Agriculture and the minister responsible for the activity of the establishment. Such applications must include the following documents:

a. A brief description of the facilities where the animals are kept and the experiments performed;

b. A brief statement of the qualifications of persons, other than those authorized under the terms of Section 1, who will participate in experiments on animals.

An order issued jointly by the Minister of Agriculture and the ministers responsible for research, higher education, national education, health, industry and nature conservation will stipulate the rules governing the facilities of such establishments, and the minimum number and qualifications of persons referred to in paragraph b above.

Article 15 - The permit may be general or specific, according to the purpose of the establishment, the nature of its facilities, and the qualifications of its personnel.

The permit is granted for a period of five years by a joint order of the Minister of Agriculture and the minister responsible for the field of activity of the establishment, and is renewable by tacit consent. Such order may restrict the scope of the requested permit or subject it to any conditions stipulated by the competent ministers.

Article 16 - The permit of an experimentation establishment may be modified or revoked, temporarily or permanently, when the establishment fails

to conform to the provisions of Chapters I and II of this decree or the conditions stipulated in the approval of said permit.

Article 17 - The Minister of Agriculture maintains an updated list of facilities with operation permits. He reports annually to the commission established by Article 27 of this decree on permits that he has granted, modified or revoked.

Section 3

Facilities for Breeding or Supplying Animals for Experimentation

Article 18 - Authorization to operate a breeding facility or a facility to supply animals for experimentation is contingent upon a prior declaration submitted to the Commissioner of the Republic in the department where the facility is to be located.

Article 19 - For the purposes of the preceding article, the following are valid as a declaration:

- a. The permit application submitted by an experimentation facility which breeds all or part of the animals used in its experiments;
- b. The authorization application governed by Decree No. 77-1297 of November 25, 1977, cited above;
- c. The authorization application or the declaration made under the terms of the law of July 19, 1976 concerning qualified environmental protection facilities, when they are governed by the provisions of said law, on condition that the authorization application or the declaration expressly state that the purpose of the facility is the breeding or shelter of animals for experimentation.

CHAPTER IV

Special Provisions on Animal Experimentation in the Area of National Security

Article 20 - In abridgement of the provisions of Articles 5 and 10 of this decree, the Minister of Defense alone is competent to receive and approve experimentation authorization applications and to grant or deny authorization when the proposed experiments involve the security of national defense.

Authorizations may be granted by the Minister of Defense for experiments necessary for research under his area of authority. Authorization may be revoked at his discretion.

Article 21 - By abridgement of the provisions of Section 2 of Chapter III above, the Minister of Defense alone is competent to issue a permit, under conditions decided by him, to experimental facilities under his area of authority.

Article 22 - By abridgement of the provisions of Section 3 of Chapter III above, the declaration of a breeding or supply facility of animals for experimentation facilities under the authority of the Minister of National Defense shall be submitted to the military authorities.

CHAPTER V

Enforcement and Sanctions

Article 23 - Under the authority vested in them by Article 283-1 of the Rural Code, veterinary inspectors are authorized to monitor and enforce application of Chapters I and III of this decree in experimental facilities and in establishments for breeding and supplying animals for experimentation. However, supervision of the conduct of experiments which involve the security of national defense shall be exercised only by veterinarians specially qualified for that purpose by the military authorities.

Technical agents and technicians of veterinary services of the Ministry of Agriculture are qualified, under the authority vested in them and within the limits set out in Article 283-2 of the Rural Code, to exercise supervision of facilities that breed and supply animals for experimentation.

Article 24 - Every person who conducts experiments on animals must be prepared to present to enforcement agents the authorization stipulated in Article 5 of this decree or the notification of receipt of his application, if the authorization has been tacit. In the absence of such documentation, he must give evidence that the facility operates under the direction and supervision of a person so authorized.

Article 25 - Any person responsible for an experimentation facility or an establishment to breed or supply animals for experimentation must have and be able to present upon request of enforcement agents a register showing the origin of the animals present in the facility.

Article 26 - Any infraction of the provisions of Articles 8, 14, 15, 16, 18, 24 and 25 of this decree shall be punishable by the penalties stipulated in Articles R. 38 and R. 39 of the penal code.

CHAPTER VI

The National Commission on Animal Experimentation

Article 27 - A National Commission on Animal Experimentation is hereby established under the minister responsible for research and the Minister of Agriculture.

The Commission renders its opinion on all proposed amendments of legislation and regulations governing animal experimentation.

The Commission may also be consulted by the ministers under which it serves, render opinions and make any proposal it deems useful regarding:

- a. The employment of experimental methods that avoid the use of live animals;
- b. The breeding of laboratory animals when they are necessary to experiments;
- c. Procedures to improve the conditions of transportation, shelter and use of laboratory animals;
- d. The training of personnel involved in using animals for scientific and ex-

perimental purposes and training of laboratory technicians;

e. In general, on the overall conditions of application of this decree.

Article 28 - The National Commission on Animal Experimentation is chaired by a member of the Cabinet, active or retired, appointed for six years by the Vice President of the Cabinet.

The Commission also comprises:

1. Eight representatives of the State, appointed for a three-year term, renewable by joint order of the Minister of Agriculture and the minister in charge of research, proposed by each of the interested ministers, i.e.:

a. A representative of the minister responsible for research, who replaces the chairman in case of his absence or impediment;

b. A representative of the Minister of Agriculture;

c. A representative of the Minister of Higher Education;

d. A representative of the Minister of National Education;

e. A representative of the Health Minister;

f. A representative of the Minister of Industry;

g. A representative of the Minister responsible for Nature Conservation;

h. A representative of the Defense Minister.

2. Twelve qualified persons appointed for a three-year term, renewable by joint order of the Minister of Agriculture and the minister responsible for research, distributed as follows:

a. Three persons who represent the public research sector;

b. Three persons selected by organizations representative of the private industrial sector;

c. Three persons selected by associations for the protection of animals and nature;

d. Three persons selected by professionals in the field of animal experimentation.

In the case of a tie vote, the chairman shall cast the deciding vote.

Article 29 - The members of the National Commission on Animal Experimentation shall be replaced in case of resignation, death or termination of their appointment. The term of new members expires on the same date that their predecessor's term would have been completed.

Article 30 - The National Commission on Animal Experimentation meets when convoked by its chairman and at least once annually. It may also meet at the request of one-third of its members.

Its Secretariat is provided by the services of the minister responsible for research.

Article 31 - The Chairman of the National Commission on Animal Experimentation may invite to the meetings of the Commission any person it wishes to consult in an advisory capacity and on a particular item on the order of business.

Article 32 - The National Commission on Animal Experimentation shall adopt its regulations, which shall establish the requisites for representation of members absent or impeded, and voting procedures.

Article 33 - The National Commission on Animal Experimentation is assisted by a technical committee responsible for ensuring coordination between organizations that produce and use laboratory animals.

The members of the committee may be drawn from the Commission or outside of it, and are appointed by joint order of the Minister of Agriculture and the minister responsible for research in such a way as to ensure balanced representation of interests on the committee.

CHAPTER VII

Final and Transitory Provisions

Article 34 - Articles R.24-14 to R.24-31 of the penal code are rescinded.

Article 35 - Experimentation authorizations in effect on the date of publication of this decree shall expire two years from the date of publication of the order stipulated by Article 10. They may be modified, revoked or suspended under the terms set forth in Article 12.

New authorization applications should be submitted within the same period.

Article 36 - Experimental establishments already in existence on the date of publication of this decree must submit a permit request within one year of the publication of the order stipulated in Article 14.

Article 37 - The Keeper of Seals, Minister of Justice, Minister of Defense, Minister of Equipment, Housing, Management of Territory and Transportation, Minister of National Education, Minister of Social Services and Employment, Minister of Industry, Postal Service, Telecommunications and Tourism, Minister of Agriculture, Minister appointed to the Minister of Equipment, Housing, Management of Territory and Transportation, Minister responsible for the Environment, the Minister appointed to the Minister of National Education responsible for Research and Higher Education, and Minister appointed to the Minister of Social Services and Employment responsible for Health and the Family, are charged, each within his competence, with the execution of this decree, which will be published in the *Official Gazette* of the Republic of France.

**FEDERAL REPUBLIC OF GERMANY
LAW ON ANIMAL PROTECTION**

Issued in Bonn on August 22, 1986

Effective January 1, 1987

Section I - Principles

Article 1

The aim of the law is to protect the lives and well-being of animals, based on human beings' responsibility for their fellow creatures. No one may cause an animal pain, suffering or harm without reasonable reason.

Section II - Keeping of Animals

Article 2

Any person keeping, caring for or required to care for an animal:

1. must provide the animal with food, care and housing appropriate to its species, needs and behaviour;
2. may not restrict the animal's freedom of movement to such an extent as to cause the animal pain or avoidable suffering or harm.

Article 2a

(1) The Federal Minister of Food, Agriculture and Forestry, hereinafter referred to as "the Minister," is hereby empowered, wherever necessary in order to protect animals, to adopt, subject to the approval of the Bundesrat, regulations specifying in greater detail the requirements of Article 2 concerning the keeping of animals and in particular provisions laying down the requirements regarding:

1. animals' freedom of movement and need for company;
2. rooms, cages and other containers and accommodation for animals and the nature of any attachment devices, feeding and drinking facilities;
3. the lighting and climate of the accommodation;
4. care and supervision of the animals; in this connection, the Minister is hereby empowered to order that the results of the monitoring must be recorded, kept and presented to the competent authorities on request.

(2) The Minister is hereby empowered, in agreement with the Federal Minister of Transport and, insofar as carriage by the German postal service is concerned, with the Federal Minister of Post and Telecommunications, to adopt regulations, subject to the agreement of the Bundesrat, concerning the transport of animals wherever necessary in order to protect animals. In particular he is empowered:

1. to prohibit or restrict the use of certain modes of transport and methods of carriage for certain animals, and in particular the use of cash-on-delivery services;
2. to order the use of certain modes of transport or methods of carriage for certain animals;
3. to order that certain animals must be accompanied by a keeper throughout the journey;
4. to adopt measures governing the loading, unloading, housing, feeding and care of animals.

Article 3

It shall be prohibited:

1. to demand an animal to produce performances clearly beyond its strength or capacity, in view of its condition, save in emergencies;
2. to buy or sell an ill, ailing, abandoned or old animal kept in a home, firm or otherwise in human care and incapable of surviving without irremediable pain or suffering other than for the purpose of putting down the animal painlessly without delay; this shall not apply to direct submission of an ailing animal to a person or establishment which has been granted authorization provided for by Article 8 and, in the case of a vertebrate, the exemption provided for in point 7 of Article 9(2) for experiments on such animals;
3. to abandon or leave an animal kept in a home, in a firm or otherwise in human care;
4. to release into the wild an animal bred or brought up in captivity and unprepared to feed itself in its new habitat in the manner required by its species and unadapted to the climate there; this shall apply without prejudice to the rules on hunting and nature conservation;
5. to subject an animal to training causing considerable pain, suffering or harm;
6. to use an animal for filming, exhibition, advertising or any other such purposes causing the animal pain, suffering or harm;
7. to train or test an animal for strength against another living animal;
8. to set one animal on another save where the rules of hunting require;
9. to force-feed an animal save for essential health reasons;
10. to give an animal food which would cause it considerable pain, suffering or harm;
11. to dope an animal at sporting or other such events.

Section III - Killing

Article 4

(1) Vertebrates may be killed only under anaesthetic or, where reasonable under the circumstances, painlessly. Where killing of a vertebrate without anaesthetic is authorized, either as part of hunting sports or in line with other laws, or forms part of a permissible pest control campaign, the killing may be carried out only if it causes no more than unavoidable pain. Only persons with the requisite expertise and qualifications may kill a vertebrate.

(2) Article 4a shall apply to the killing of warm-blooded animals.

Article 4a

(1) Warm-blooded animals may be slaughtered only if anaesthetized before blood is drawn.

(2) By way of derogation from paragraph (1), no anaesthetization shall be required if:

1. It is impossible under the circumstances in the case of an emergency slaughter;
2. The competent authorities have granted an exemption to slaughter without anaesthetic (ritual slaughter); this exemption may be granted only where necessary to satisfy members of religious communities established in the terri-

tory covered by this law whose rules require compulsory ritual slaughter and prohibit consumption of meat of animals not slaughtered in this way.

Article 4b

In order to ensure that no more than unavoidable pain is inflicted on animals, the Minister is hereby empowered, subject to the approval of the Bundesrat, to adopt regulations:

1. (a) to govern the killing of fish and other cold-blooded animals;
 (b) to lay down more detailed rules governing, prescribing, authorizing or prohibiting certain forms of killing and methods of anaesthetization;
 (c) to lay down in greater detail the conditions under which the slaughters provided for in Article 4a(2) are to be carried out;
2. to lay down more detailed rules governing the slaughter of animals in line with the European Convention of 10 May 1979 for the Protection of Animals for Slaughter (*Bundesgesetzblatt* 1983 II, p. 770).

Section IV - Operations on Animals

Article 5

(1) Painful operations may not be carried out on vertebrates without anaesthetic. In the case of warm-blooded vertebrates, the anaesthetic must be administered by a veterinarian. Whenever evidence can be produced that there is good reason to do so, the competent authorities may grant exemptions from the previous sentence if the anaesthetic is administered in cartridge form.

(2) No anaesthetization shall be required if:

1. no anaesthetic is usually administered for comparable operations on human beings;
2. in the judgment of the veterinarian, it does not seem possible to administer anaesthetic in the specific case in point.

(3) In addition, no anaesthetization shall be required for:

1. castration of cattle, pigs, goats, sheep and rabbits under two months old provided their anatomy shows no sign of deviation from normal;
2. the removal of horns or prevention of horn growth in cattle under six weeks old;
3. the docking of tails of piglets under four days old or lambs under eight days old;
4. the docking of tails of lambs under eight days old using elastic rings;
5. the docking of tails of puppies under eight days old;
6. the docking of the horny parts of the beak of poultry;
7. the removal, during the first days of the chicks' lives, of the claws of broiler chickens intended for breeding.

(4) The Minister is hereby empowered to adopt, subject to the agreement of the Bundesrat, regulations prescribing, authorizing or prohibiting procedures and methods for implementing the measures listed in paragraph (3) whenever necessary in order to protect animals.

Article 6

(1) The amputation of all or part of parts of the body, or the destruction or removal of all or part of organs or tissues, of a vertebrate is hereby prohibited.

This prohibition shall not apply if:

1. the veterinarian indicates that the operation is necessary in the specific case in point;
2. the operation is essential for the specific use of the animal in question, with the exception of use for experiments, and there are no objections on veterinarian grounds;
3. the case falls under Article 5(3);
4. removal of all or part of organs or tissues is essential for transplant purposes, to establish cultures or for research into individual organs, tissues or cells.

The operations referred to in points 1 and 2 must be performed by a veterinarian. The operations referred to in point 3 may be carried out by other persons with the requisite expertise and qualifications. For the operations referred to in point 4, Articles 8a(1), 9(1) points 1, 3 and 4, 9(2) points 4 and 8, and 3(1) shall apply as appropriate.

(2) The use of elastic rings for amputation or castration is hereby prohibited; this shall not apply in the case referred to in point 4 of Article 5(3).

Article 6a

The provisions of the Section shall not apply to experiments on animals and to operations for training purposes.

Section V - Experiments on Animals

Article 7

(1) For the purposes of this law, "Experiments on animals" means any operation or treatment which may cause the animal pain, suffering or harm.

(2) Experiments may be carried out on animals only insofar as they are indispensable for:

1. the prevention, diagnosis or treatment of diseases, ill-health, bodily defects or other abnormalities or the detection or modification of physiological conditions or functions in human beings or animals;
2. the detection of environmental hazards;
3. the testing of substances or products to ensure that they have no adverse effects on the health of human beings or animals or are effective against animal pests;
4. basic research.

The decision whether experiments on animals are indispensable shall be based in particular on the scientific knowledge available at the time and on checks whether the same purpose can be achieved by other methods or procedures.

(3) Experiments may be carried out on vertebrates only if the pain, suffering or harm which they can be expected to inflict on the animals is ethically justifiable in relation to the purpose of the experiment. Experiments causing prolonged or repeated severe pain or suffering to vertebrates may be carried out if the results are expected to be outstandingly important for fundamental needs of human beings or animals, including for the solution of scientific problems.

(4) Experiments on animals to develop or test weapons, ammunition and the associated equipment are hereby prohibited.

(5) In principle, experiments on animals to develop tobacco products, washing powders and cosmetics are prohibited. The Minister is hereby empowered to adopt, subject to the approval of the Bundesrat, regulations granting exemptions wherever necessary in order to avoid specific health hazards and wherever there is no other way of obtaining the new knowledge required.

Article 8

(1) Any person wishing to conduct experiments on vertebrates must obtain authorization from the competent authorities.

(2) The application for authorization of the planned experiment must be submitted to the competent authorities in writing. The application must:

1. set out scientific evidence that the conditions laid down in point 1 of paragraph (3) have been satisfied;
2. demonstrate that the conditions laid down in points 2 to 4 of paragraph (3) have been satisfied;
3. demonstrate that the conditions laid down in point 5 of paragraph (3) have been satisfied.

In addition, the application must contain the data mentioned in points 1 to 5 of Article 8a(2).

(3) Authorization shall be granted only when:

1. scientific evidence is produced that:
 - (a) the conditions laid down in Articles 7(2) and 7(3) have been satisfied;
 - (b) not enough is known about the result sought despite exhausting all available sources of information or that a repeat or duplicate experiment is essential in order to confirm an adequately known result;
2. the experiment leader and his deputy possess the requisite expertise, particularly on supervision of experiments on animals and there are no facts which cast doubts on their reliability;
3. the requisite installations, equipment and other technical resources are available together with the personnel and organization for conducting experiments on animals, including the activities of the animal protection officer;
4. steps have been taken to ensure the animals' accommodation, care, supervision and medical attention satisfying the requirements laid down in Article 2;
5. Articles 9(1), 9(2) and 9a(1) can be expected to be observed.

(4) The authorization shall name the experiment leader and his deputy. The authorization holder shall inform the competent authorities immediately of any change of experiment leader or deputy; the authorization shall remain valid unless revoked within one month.

(5) The authorization shall apply for a limited period.

(6) If the authorization is granted to a university or other such establishment, the persons conducting the experiments on animals must be employed at the establishment or authorized to use the establishment by the head thereof.

(7) No authorization shall be required for experiments:

1. expressly required by:

- (a) a law, regulation or directly applicable legal instrument adopted by an institution of the European Communities;
- (b) general administrative provisions adopted by the Federal Government or by a Federal Minister, with the agreement of the Bundesrat, in line with Articles 7(2) and 7(3); or
- (c) order of a judge or an authority, based on a law, regulation or directly applicable legal instrument adopted by an institution of the European Communities or in individual cases where required prior to the adoption of administrative measures;

2. taking the form of vaccinations, blood samples or any other proven method of diagnosis and serving to detect, in particular, diseases, ill-health, bodily defects or other abnormalities in human beings or animals or to test serums or vaccines.

Article 8a

(1) Any person wishing to conduct experiments on animals for which no authorization is required shall inform the competent authorities of the planned experiment at least two weeks before the experiment begins. This time limit need not be observed in emergencies where the experiment must be carried out immediately; in this case, notification shall be sent immediately afterwards.

(2) The notification shall indicate:

- 1. the purpose of the experiment;
- 2. the type and, in the case of vertebrates, number of animals to be used for the experiment;
- 3. the type of experiments planned and the procedure to be used, including anaesthetization;
- 4. the place, starting date and likely duration of the experiment;
- 5. the name and address of the experiment leader and of his deputy;
- 6. in the case of experiments covered by point 1 of Article 8(7), the legal basis for exemption from authorization.

(3) If several experiments of the same type are planned, notification of the first shall suffice, provided the notification specifies the foreseeable number of experiments. At the end of each year the competent authorities must be informed of the number of experiments conducted and, in the case of vertebrates, of the type and total number of animals used.

(4) Should the details listed in paragraph (2) change in the course of the experiment, the competent authorities must be notified of the changes immediately unless the changes make no difference to supervision of the experiment.

(5) The competent authorities shall prohibit experiments on animals if the facts suggest that there is no certainty that Articles 7(2) or 7(3), 8b(1), (2), (4), (5) or (6), or 9(1) or 9(2) will be observed and this omission is not corrected within the time limit set by the competent authorities.

Article 8b

(1) Persons responsible for establishments where experiments are conducted on vertebrates shall appoint one or more animal protection officers and inform the competent authorities of each appointment. The notification shall also indicate the position and powers of each animal protection officer in line with paragraph (6) of this Article.

(2) Only persons who have completed university studies in veterinary medicine, medicine or biology (specializing in zoology) may be appointed as animal protection officers. They must possess the specialist knowledge and reliability needed to perform their tasks. In specific cases the competent authorities may grant exemptions from the first sentence of this paragraph.

(3) The animal protection officer shall be under an obligation:

1. to ensure that the conditions and provisions on animal protection are observed;

2. to advise the establishment and the staff involved in the experiments and in keeping the animals;

3. to give his opinion on each application for authorization to conduct an experiment on animals;

4. to do in-house work on the development and introduction of procedures and means for avoiding or reducing experiments on animals.

(4) If the animal protection officer conducts an experiment himself, another animal protection officer shall supervise the experiment.

(5) The establishment must support the animal protection officer in the performance of his tasks and inform him of every experiment planned so that he can carry out his duties without restriction.

(6) The animal protection officer shall be a free agent when fulfilling his tasks. He may not be discriminated against because of performing his tasks. His position and powers shall be laid down by statute, by in-house instructions or in similar form. In the process steps shall be taken to ensure that the animal protection officer can raise his proposals or reservations before the decision-making body in the establishment. If several animal protection officers are appointed, the responsibilities of each shall be clearly defined.

Article 9

(1) Only persons with the requisite expertise may conduct experiments on animals. Only persons who have completed university studies in veterinary medicine, medicine or natural sciences may conduct experiments on vertebrates, with the exception of the experiments covered by point 2 in Article 8(7). Operations on vertebrates may be performed only by persons who have completed university studies in:

1. veterinary medicine or medicine; or

2. biology (specializing in zoology), provided the persons are employed at universities or other scientific establishments.

In specific cases the competent authorities may grant exemptions from these provisions, wherever compatible with the need to protect animals used in experiments.

(2) Experiments on animals shall be limited to the absolute minimum. Full account shall be taken of the latest scientific knowledge when carrying them out. In particular, the following conditions shall apply:

1. Experiments may be carried out on animals with highly developed sensory systems, and in particular warm-blooded animals, only when experiments on animals with less developed sensory systems will not suffice for the purpose. Experiments may be carried out on animals taken from the wild only if experiments on other animals will not suffice for the purpose.

2. No more animals than are necessary to achieve the purpose of the experiment may be used.

3. Pain, suffering or harm may be inflicted on animals only insofar as unavoidable in order to attain the purpose of the experiment: in particular, they may not be inflicted in order to save work, time or costs.

4. Subject to the provisions of the fourth sentence of this paragraph, experiments may be conducted on vertebrates only under anaesthetic. The anaesthetic may be administered only by, or under the supervision of, a person satisfying the conditions laid down in sentences 1 and 2 of paragraph (1). If the vertebrate is likely to suffer considerable pain when the anaesthetic wears off, the animal must be treated with painkillers in good time, unless incompatible with the purposes of the experiment. Vertebrates which have received no anaesthetic may not be subjected to:

(a) operations causing serious injuries;

(b) any other operation, unless the resultant pain is less serious than the adverse effect of anaesthetic on the animal's health or anaesthesia is incompatible with the purpose of the experiment. Vertebrates which have been given no anaesthetic may not be subjected more than once to operations or treatment entailing severe pain unless there is no other way of attaining the purpose of the experiment. Vertebrates which have not been anaesthetized may not be given any product to stop or restrict them from showing their pain.

5. Vertebrates subjected to serious operations or used for an experiment entailing severe or persistent pain or suffering or serious harm may not be used for any further experiments unless their health and general well-being have been fully restored and the further experiment entails no suffering or harm and only minor pain.

6. Animals used in experiments to determine the lethal dose or lethal concentration of a substance shall be put down painlessly as soon as it becomes clear that they are dying under the effect of the substance.

7. Only vertebrates bred for the purpose may be used in experiments on animals. Wherever compatible with the need to protect animals, the competent authorities may grant exemptions from this provision if no specially bred animals of the type in question are available for the experiment or the purpose of the experiment demands the use of animals of other origin.

8. At the end of the experiment, every surviving monkey, lemur, hoofed or cloven-footed animal, dog, hamster, cat, rabbit and guinea pig used must be submitted to a veterinarian for examination without delay. If the veterinarian concludes that the animal cannot survive without pain or suffering, the animal shall be put down painlessly without delay. Animals other than those specified in the first sentence shall also be put down painlessly without delay if considered necessary by the person who performed the experiment. Animals to be kept alive at the end of the experiment must receive the care appropriate to their state of health, be placed under the supervision of a veterinarian or other competent person and be given any medical treatment necessary.

(3) The experiment leader or his deputy shall be responsible for observance of the rules laid down in paragraphs (1) and (2). The same shall apply to fulfillment of any conditions attached to the authorization, in line with Article 8.

Article 9a

(1) Records shall be kept of all experiments on animals. The records must state the purpose of each experiment, in particular the reasons for allowing experi-

ments on animals with highly developed sensory systems in line with point 1 in Article 9(2), the number and type of animals used and the nature and procedure of the experiments. Whenever vertebrates are used, details of their origin, including the name and address of the previous owner, must also be given. Where cats and dogs are concerned, details of their sex, breed, coat type, coat pattern and any markings must also be given. The records must be written by the persons performing the experiments and signed by the experiment leader. Records prepared automatically need not be signed. The records shall be kept for three years after the end of the experiment and shall be submitted to the competent authorities for inspection on request.

(2) The Minister is hereby empowered to adopt, subject to the approval of the Bundesrat, regulations requiring persons and establishments conducting experiments on vertebrates to inform the competent authorities at set, regular intervals of the type and number of animals used for the experiments and of the type of experiments and to lay down the notification and submission procedure.

Section VI - Operations and Treatment for Training Purposes

Article 10

(1) Operations or treatment causing animals pain, suffering or harm may be carried out for training purposes only:

1. at a university, other scientific establishment or hospital; or
2. as part of a course of vocational or further training for medical or scientific professions.

They may be performed only when there is no other way of attaining the same purpose, for example, by showing films.

(2) Articles 8a, 9(1), 9(2) and 9a(1) shall apply *mutatis mutandis* to operations or treatment for training purposes. Article 8a(1) shall apply *mutatis mutandis* on condition that notification must be given of the operations or treatment before they are included in the curriculum or before the curriculum is changed and Article 9(1) on condition that the operations and treatment must be performed by, or under the supervision of, the persons named therein.

(3) The head of training or his deputy shall be responsible for ensuring compliance with paragraphs (1) and (2).

Section VII - Animal Breeding and Supplying

Article 11

(1) Authorization must be obtained from the competent authorities in order:

1. to breed or keep vertebrates for use in experiments;
2. to keep animals for other people in a home or similar establishment;
3. (a) to breed or keep cats, dogs or other pets on a commercial basis;
(b) to supply vertebrates other than farm livestock on a commercial basis;
(c) to run a riding or transport business; or
(d) to exhibit animals.

The application for authorization must indicate:

1. the type of animals involved in the activity;
2. the person responsible for the activity;
3. the premises and establishments used for the activity.

Evidence of the expertise referred to in point 1 of paragraph (2) shall be attached to the application.

(2) Authorization shall be granted only if:

1. the person responsible for the activity has acquired the requisite qualifications and expertise through training or previous professional experience with animals;
2. the person responsible for the activity has shown the requisite reliability; and
3. the premises and establishments to be used for the activity allow the animals to receive the appropriate feeding, care and accommodation as required by Article 2.

(3) The activity referred to in the first sentence of paragraph (1) may not be exercised until authorization has been granted. The competent authorities may prohibit anyone not holding an authorization from exercising the activity.

(4) The competent authorities may also close business premises or offices to prevent offenders from exercising activities banned under point 2 of paragraph (3).

Article 11a

(1) Persons breeding, keeping or trading in vertebrates for use in experiments shall keep records of the origin and location of the animals for three years. This shall not apply to wild vertebrates for which corresponding records are already required under the laws on hunting or nature conservation.

(2) Persons breeding cats or dogs to be supplied for or used in experiments shall indelibly mark the animals before they are weaned so that they can be identified. Anyone acquiring unmarked cats or dogs with a view to supplying them for or using them in experiments shall mark them without delay.

(3) The Minister is hereby empowered to adopt, subject to the approval of the Bundesrat, regulations on the type and extent of the records and markings. He may make provisions for records based on legislation other than the previous sentence to apply.

Article 11b

It is hereby prohibited to breed vertebrates if the breeder must expect inherited defects to result in the offspring lacking parts of the body or organs usually needed by the species or in their being unfit or deformed and undergoing pain, suffering or harm. This prohibition shall not apply to the breeding of mutants needed to perform certain experiments on animals.

Article 11c

It shall be prohibited to supply, without the guardian's consent:

1. warm-blooded animals to children or adolescents under 16 years of age;
2. other vertebrates to children under 14.

Section VIII - Ban on Import, Movement and Trading

Article 12

Vertebrates showing signs of harm presumably caused by cruelty may not be brought onto the territory covered by this law or put on the market or traded commercially there if the harm is such that the animals cannot survive without suffering. This ban shall in no way prejudice completion of customs formalities.

Section IX - Other Rules on the Protection of Animals

Article 13

(1) It is hereby forbidden to use equipment or products posing a danger of avoidable pain, suffering or harm to the animals to capture, keep out or scare away vertebrates; this shall not apply to equipment or products allowed under other laws. The hunting, nature protection, plant protection and disease prevention laws shall remain unaffected.

(2) The Minister is hereby empowered to adopt, subject to the approval of the Bundesrat, regulations ordering measures to protect wildlife from avoidable pain or harm as a result of agriculture or forestry activities.

(3) The Minister is hereby empowered to adopt, subject to agreement with the Minister of Economic Affairs and to the approval of the Bundesrat, regulations prohibiting or requiring authorization for keeping or trading in wild animals and for bringing them onto the territory covered by this law wherever necessary in order to protect animals.

Section X - Implementing Provisions

Article 14

(1) The Federal Minister of Financial Affairs and the customs posts designated by him shall cooperate in monitoring animals brought onto the territory covered by this law. In the case of the free port of Hamburg, the Minister of Financial Affairs may, in agreement with the Hamburg Senate, delegate this task to the free port authorities. Article 14(2) of the Financial Act shall apply *mutatis mutandis*. The abovementioned authorities may:

1. detain for monitoring the animals together with the vehicles, containers and packaging in which they enter the territory covered by this law;

2. inform the competent authorities of any suspected infringements noticed during clearance of the prohibitions and restrictions imposed by this law or by the regulations adopted on the basis of this law;

3. in the cases covered by point 2, order the animals to be presented to the competent authorities at the expense and risk of the person responsible for disposing of the animals.

(2) The Federal Minister of Financial Affairs shall adopt, in agreement with the Minister but without the approval of the Bundesrat, regulations laying down in full detail the procedure provided for by paragraph (1). In particular, he may impose obligations to supply information, notification and help, to allow scrutiny of the business papers and other documents and to permit inspections.

Article 15

(1) The authorities responsible under the land regulations shall be responsible for implementing this law and any regulations adopted on the basis thereof. Each authority responsible under the land regulations shall appoint one or more commissions to assist it in deciding whether to authorize experiments on animals. The majority of the members must possess the specialist knowledge of veterinary medicine, medicine or any other natural science needed in order to assess experiments on animals. The commissions shall also include members proposed by animal protection organizations and with the experience needed to assess animal protection problems. These members must make up one-third of the commission. The competent authorities shall inform the commission immediately of all applications for authorization to carry out experiments on animals and give the commission an opportunity to give its opinion on the application within an appropriate time limit.

(2) The competent authorities shall allow the official veterinary officer to take part in expert capacity in implementing this law or the regulations adopted on the basis thereof.

(3) The appropriate divisions of the Army shall be responsible for applying this law to animals owned by the Army. The Federal Minister of Defence shall appoint a commission to assist the appropriate divisions in deciding whether to authorize individual applications to perform experiments on animals. The majority of the members of the commission must possess the specialist knowledge of veterinary medicine, medicine or any other natural science needed to assess experiments on animals. The commission shall also include members proposed by animal protection organizations and with the experience needed to assess animal protection problems. The relevant division shall inform the commission immediately of all applications for authorization to carry out experiments on animals and give the commission an opportunity to give its opinion on the application within an appropriate time limit. Full account shall be taken of the security interests of the Army.

Article 15a

The authorities responsible under the land regulations shall inform the Minister of fundamentally important cases concerning authorization of experiments on animals, particularly of cases where such authorization is refused on the grounds that the conditions laid down in Article 7(3) have not been fulfilled or where the commission provided for in Article 15(1) or the animal protection officer has doubts about observance of these conditions.

Article 16

- (1) The following shall be subject to supervision by the competent authorities:
1. livestock farms;
 2. slaughterhouses;
 3. establishments which conduct experiments on animals or operations or treatment for training purposes;
 4. establishments covered by Article 11(1);
 5. establishments or firms dealing with farm animals;
 6. zoos and circuses operated on a non-commercial basis.
- (2) Natural and legal persons and associations incapable of acting as a legal enti-

ty shall provide the competent authorities, on request, with the information needed by the authorities in order to carry out the duties imposed on them by this law.

(3) In order to implement paragraph (2), persons authorized by the competent authorities may:

1. enter sites, business premises, office buildings and vehicles of the person required to provide notification during office or working hours;
2. in order to prevent pressing hazards to public health and order:
 - (a) enter the sites, premises, buildings and vehicles specified in point 1 outside the hours specified therein;
 - (b) enter the residence of the person required to provide notification. To this extent the fundamental right of inviolability of the home (Article 13 of the Constitution) shall be restricted.
3. inspect business papers. The person required to give notification shall allow these measures, support the supervisory authorities and submit the business papers.

(4) The person required to provide information may refuse to answer questions which could render him or the members of his family listed in points 1 to 3 of Article 383(1) of the Code of Civil Procedure liable to criminal proceedings or to prosecution under the law against Administrative Offences.

Article 16a

The competent authorities shall issue the orders necessary to end any infringements detected and to prevent future infringements. In particular they may:

1. order any measures necessary to satisfy Article 2 in any particular case;
2. remove from the keeper animals found by the official veterinarian to be seriously neglected, because the requirements of Article 2 have not been satisfied, and put them into care elsewhere at the keeper's costs until the keeper provides guarantees that the animal will be kept in conditions satisfying Article 2. Should the official veterinarian consider that the animal can survive only with irremediable severe pain, suffering or harm, the authority may have the animal put down painlessly at the keeper's cost;
3. prohibit anyone who repeatedly or seriously infringes Article 2, an order referred to in point 2 or an order adopted under Article 1(a) and inflicts severe pain, suffering or harm on an animal in his care as a result from keeping animals of all or certain types if there is *prima facie* evidence that he would commit further such offences. On appeal, he may be restored the right to keep animals if there are no longer any grounds to assume that he will repeat the offence;
4. order an end to experiments on animals which are being carried out without the requisite authorization or in contravention of a ban imposed to protect animals.

Article 16b

(1) The Minister shall appoint an animal protection commission to assist him on animal protection questions. The Minister shall hear the views of the animal protection commission before adopting regulations and general administrative provisions to implement this law.

(2) The Minister is hereby empowered to adopt regulations, without the approval of the Bundesrat, laying down more detailed rules concerning the com-

position of the animal protection commission, appointment of its members and its tasks and rules of procedure.

Article 16c

The Minister shall adopt, subject to the approval of the Bundesrat, the general administrative provisions necessary to implement this law and the regulations based thereon.

Article 16d

Every two years the Federal Government shall report to the Bundestag on the progress made in the animal protection field.

Section XI - Penalties and Fines

Article 17

Anyone committing the following offences shall be liable to up to two years' imprisonment or a fine:

1. kills a vertebrate without reasonable reason;
2. causes a vertebrate:
 - (a) considerable pain or suffering out of cruelty; or
 - (b) persistent or repeated severe pain or suffering.

Article 18

- (1) An offence is committed by anyone who deliberately or negligently:
1. inflicts severe pain, suffering or harm without reasonable reason on a vertebrate which he keeps, cares for or is required to care for;
 2. infringes a directly applicable order, as provided for by Articles 8a(5), 11(3) or 16a(2);
 3. infringes a regulation adopted
 - (a) pursuant to Article 2a; or
 - (b) pursuant to Articles 4b, 5(4), 9a(2), 11a(3), 13(2), 13(3) or 14(2) wherever they refer to this Article laying down fines for certain cases.
 4. infringes a prohibition imposed pursuant to Article 3;
 5. kills a vertebrate in contravention of Article 4(1);
 6. slaughters a warm-blooded animal in contravention of Article 4a(1);
 7. performs an operation without anaesthetic in contravention of the first sentence of Article 5(1) or administers anaesthetic without being a veterinarian in contravention of the second sentence of Article 5(1);
 8. infringes a prohibition imposed by the first sentence of Article 6(1) or performs an operation in contravention of the third sentence of Article 6(1);
 9. fails to ensure that the first or third sentences of Article 9(1) or points 4 or 8 of Article 9(2) are complied with, in contravention of Article 6(1) in conjunction with Article 9(3);
 10. uses elastic rings in contravention of Article 6(2);
 11. performs experiments on animals in contravention of Articles 7(4) or 7(5);
 12. performs experiments on vertebrates without the authorization required under Article 8(1);

13. fails to give notification of a change, or fails to give notification in good time, in contravention of Article 8(4);

14. fails to give notification or gives incorrect, incomplete or late notification of plans or of changes therein in contravention of Articles 8a(1), 8a(2) or 8a(4);

15. fails to give notification or gives incorrect or late notification of the number of experiments or of the type or number of animals used in contravention of Article 8a(3);

16. fails to appoint an animal protection officer in contravention of Article 8b(1);

17. fails to ensure compliance with Articles 9(1) or 9(2) in contravention of the first sentence of Article 9(3) or with a directly applicable condition in contravention of the second sentence of Article 9(3);

18. fails to keep records, or keeps incorrect or incomplete records, or fails to sign, preserve or submit records in contravention of Article 9a(1);

19. fails to ensure that Articles 10(1) or 10(2) are observed in contravention of Article 10(3);

20. exercises an activity without the authorization required by Article 11(1) or infringes one of the directly applicable conditions imposed by such an authorization;

21. fails to keep records, or keeps incorrect or incomplete records, or fails to preserve the records in contravention of Article 11a(1) or fails to mark animals in the prescribed way or time in contravention of Article 11a(2);

22. breeds vertebrates in contravention of Article 11b;

23. supplies a warm-blooded animal to a child under 16 or another vertebrate to a child under 14 in contravention of Article 11c;

24. imports a vertebrate into the territory covered by this law or places a vertebrate on the market there or keeps it there on a commercial basis in contravention of Article 12(1);

25. uses equipment or products in contravention of Article 13(1);

26. fails to provide information, or provides incorrect or incomplete information in contravention of Article 16(2) or fails to fulfill the obligation to cooperate or allow inspections as required by Article 16(3);

27. infringes one of the rules in Articles 1 to 5 of the regulation on the slaughter and conservation of live fish and other cold-blooded animals, as published in the *Bundesgesetzblatt*, Part III, page 7833-1-3.

(2) Irrespective of the cases covered by point 1 of paragraph (1), an infringement is also committed by anyone who inflicts severe pain, suffering or harm on an animal without reasonable reason.

(3) The infringements referred to in points 1, 2, 3(a), 4 to 9, 11, 12, 17, 20, 22, 25 and 27 of paragraph (1) and in paragraph (2) may be punished by a fine of up to 50,000 German marks; the other infringements mentioned in paragraph (1) may be penalized by a fine of up to 10,000 German marks.

Article 19

Animals subjected to one of the infringements provided for in Articles 17 and points 1, 2 and 3 of Article 18(1) in contravention of a regulation adopted pursuant to Article 2a or points 4, 8, 9, 12, 17, 19, 22, 23, 24 or 27 of Article 5(4) may be confiscated.

Article 20

(1) Anyone found guilty of an infringement under Article 17 or found not guilty only on grounds of proven or possible diminished responsibility may be banned by the courts from keeping, trading or all other professional contact with animals of all or certain kinds for one to five years or for life if there is any danger of a repetition of the infringement of Article 17.

(2) The ban shall come into effect when the sentence gains legal force. Any time spent by the offender in a penal establishment shall not be counted as part of the period covered by the ban. If, after the ban has been ordered, there are any grounds for assuming that there is no longer any danger of the offender infringing Article 17, the courts may quash the ban, provided it has lasted at least six months.

(3) Anyone infringing a ban imposed under paragraph (1) shall be liable to up to one year's imprisonment or a fine.

Section XII - Transitional and Final Provisions

Article 21

(1) Authorizations to perform experiments on animals before 1 January 1987 shall expire on 31 December 1987 at the latest. Experiments started on animals before 1 January 1987 and of which only notification was required under the law in force at the time but for which an authorization is now required, may continue without authorization until a decision is taken on the application for authorization, provided an application is submitted by 31 March 1987. Experiments started on animals before 1 January 1987 and for which still only notification is required must be renotified to the competent authorities by 31 March 1987 in accordance with Article 8a; the same shall apply to operations or treatment for training purposes of which notification is required.

(2) Persons exercising an activity for which authorization is required under Article 11 with effect from 1 January 1987 in accordance with the first sentence of Article 11(1) shall be considered to have provisional authorization for this activity. This provisional authorization shall expire:

1. if no application for definitive authorization is submitted by 30 June 1987;
2. if an application is submitted in time, as soon as the decision on the application is no longer contestable.

Article 21a

Regulations may also be adopted on the basis of the Law to Implement Regulations, Directives and Decisions of the Council or Commission of the European Communities concerning animal protection.

Article 21b

The Minister is hereby empowered to adopt, subject to the approval of the Bundesrat, regulations repealing the following provisions, including any amendments made thereto by the laws of the land in question:

1. the consolidated version of the law on the slaughter of animals, as published in the *Bundesgesetzblatt*, Part III, page 7833-2, as amended by Article 216(I) of the law of 2 March 1974 (*Bundesgesetzblatt* I, p. 469);

2. the consolidated version of the Regulation on the slaughter of animals, as published in the *Bundesgesetzblatt*, Part III, page 7833-2-1;

3. (a) the consolidated version of the Regulation on the slaughter and conservation of live fish and other cold-blooded animals, as published in *Bundesgesetzblatt*, Part III, page 7833-1-3, as amended by point 5 of Article 23 of this law;

(b) point 27 of Article 18(1) of this law;

Bavaria

4. The consolidated version of Regulation No. 49 on the slaughter of animals, as published in the *Bundesgesetzblatt*, Part III, page 7833-2-2-a;

Hamburg

5. The consolidated version of the amendment to the regulation on the slaughter of animals, published in the *Bundesgesetzblatt*, Part III, page 7833-2-1-a;

Hessen

6. The consolidated version of the law on the slaughter of animals, as published in the *Bundesgesetzblatt*, Part III, page 7833-2-a;

North Rhine - Westphalia

7. The consolidated version of the regulation on the slaughter of animals following Jewish rights, as published in the *Bundesgesetzblatt*, Part III, page 7833-2-1-b (Sammlung des bereinigten Landesrechts Nordrhein-Westfalen, p. 762) for the former province of North Rhine;

8. The consolidated version of the order on the slaughter of animals using the Jewish method, as published in the *Bundesgesetzblatt*, Part III, page 7833-2-1-c (Sammlung des bereinigten Landesrechts Nordrhein-Westfalen, p. 762) for the former province of Westphalia.

Article 22

In line with Article 13(1) of the Third Transference Law, this law shall apply likewise in the land of Berlin. In accordance with Article 14 of the Third Transference Law, regulations adopted to implement this law shall apply likewise in the land of Berlin.

COUNCIL OF THE EUROPEAN COMMUNITIES

COUNCIL DIRECTIVE

of 24 November 1986

on the approximation of laws, regulations and administrative provisions of the Member States regarding the protection of animals used for experimental and other scientific purposes.

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Whereas there exist between the national laws at present in force for the protection of animals used for certain experimental purposes disparities which may affect the functioning of the common market,

Whereas, in order to eliminate these disparities, the laws of the Member States should be harmonized; whereas such harmonization should ensure that the number of animals used for experimental or other scientific purposes is reduced to a minimum, that such animals are adequately cared for, that no pain, suffering, distress or lasting harm are inflicted unnecessarily and ensure that, where unavoidable, these shall be kept to the minimum;

Whereas, in particular, unnecessary duplication of experiments should be avoided,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The aim of this Directive is to ensure that where animals are used for experimental or other scientific purposes the provisions laid down by law, regulation or administrative provisions in the Member States for their protection are approximated so as to avoid affecting the establishment and functioning of the common market, in particular by distortions of competition or barriers to trade.

Article 2

For the purposes of this Directive the following definitions shall apply:

(a) "animal" unless otherwise qualified, means any live non-human vertebrate, including free-living larval and/or reproducing larval forms, but excluding foetal or embryonic forms;

(b) "experimental animals" means animals used or to be used in experiments;

(c) "bred animals" means animals specially bred for use in experiments in facilities approved by, or registered with, the authority;

(d) "experiment" means any use of an animal for experimental or other scientific purposes which may cause it pain, suffering, distress or lasting harm, including any course of action intended, or liable, to result in the birth of an animal in any such condition, but excluding the least painful methods accepted in modern practice (i.e., "humane" methods) of killing or marking an animal; an

experiment starts when an animal is first prepared for use and ends when no further observations are to be made for that experiment; the elimination of pain, suffering, distress or lasting harm by the successful use of anaesthesia or analgesia or other methods does not place the use of an animal outside the scope of this definition. Non experimental, agricultural or clinical veterinary practices are excluded;

(e) "authority" means the authority or authorities designated by each Member State as being responsible for supervising the experiments within the meaning of this Directive;

(f) "competent person" means any person who is considered by a Member State to be competent to perform the relevant function described in this Directive;

(g) "establishment" means any installation, building, group of buildings or other premises and may include a place which is not wholly enclosed or covered and mobile facilities;

(h) "breeding establishment" means any establishment where animals are bred with a view to their use in experiments;

(i) "supplying establishment" means any establishment, other than a breeding establishment, from which animals are supplied with a view to their use in experiments;

(j) "user establishment" means any establishment where animals are used for experiments;

(k) "properly anaesthetized" means deprived of sensation by methods of anaesthesia (whether local or general) as effective as those used in good veterinary practice;

(l) "humane method of killing" means the killing of an animal with a minimum of physical and mental suffering, depending on the species.

Article 3

This Directive applies to the use of animals in experiments which are undertaken for one of the following purposes:

(a) the development, manufacture, quality, effectiveness and safety testing of drugs, foodstuffs and other substances or products:

(i) for the avoidance, prevention, diagnosis or treatment of disease, ill-health or other abnormality or their effects in man, animals or plants;

(ii) for the assessment, detection, regulation or modification of physiological conditions in man, animals or plants;

(b) the protection of the natural environment in the interests of the health or welfare of man or animal.

Article 4

Each Member State shall ensure that experiments using animals considered as endangered under Appendix I of the Convention on International Trade in Endangered Species of Fauna and Flora and Annex C.I. of Regulation (EEC) No. 3626/82⁴ are prohibited unless they are in conformity with the above Regulation and the objects of the experiment are:

—research aimed at preservation of the species in question, or

—essential biomedical purposes where the species in question exceptionally proves to be the only one suitable for those purposes.

Article 5

Member States shall ensure that, as far as the general care and accommodations of animals is concerned:

(a) all experimental animals shall be provided with housing, an environment, at least some freedom of movement, food, water and care which are appropriate to their health and well-being;

(b) any restriction on the extent to which an experimental animal can satisfy its physiological and ethological needs shall be limited to the absolute minimum;

(c) the environmental conditions in which experimental animals are bred, kept or used must be checked daily;

(d) the well-being and state of health of experimental animals shall be observed by a competent person to prevent pain or avoidable suffering, distress or lasting harm;

(e) arrangements are made to ensure that any defect or suffering discovered is eliminated as quickly as possible.

For the implementation of the provisions of paragraphs (a) and (b), Member States shall pay regard to the guidelines set out in Annex II.

Article 6

1. Each Member State shall designate the authority or authorities responsible for verifying that the provisions of this Directive are properly carried out.

2. In the framework of the implementation of this Directive, Member States shall adopt the necessary measures in order that the designated authority mentioned in paragraph 1 above may have the advice of experts competent for the matters in question.

Article 7

1. Experiments shall be performed solely by competent authorized persons, or under the direct responsibility of such a person, or if the experimental or other scientific project concerned is authorized in accordance with the provisions of national legislation.

2. An experiment shall not be performed if another scientifically satisfactory method of obtaining the result sought, not entailing the use of an animal, is reasonably and practicably available.

3. When an experiment has to be performed, the choice of species shall be carefully considered and, where necessary, explained to the authority. In a choice between experiments, those which use the minimum number of animals, involve animals with the lowest degree of neurophysiological sensitivity, cause the least pain, suffering, distress or lasting harm and which are most likely to provide satisfactory results shall be selected.

Experiments on animals taken from the wild may not be carried out unless experiments on other animals would not suffice for the aims of the experiment.

4. All experiments shall be designed to avoid distress and unnecessary pain and suffering to the experimental animals. They shall be subject to the provisions laid down in Article 8. The measures set out in Article 9 shall be taken in all cases.

Article 8

1. All experiments shall be carried out under general or local anaesthesia.

2. Paragraph 1 above does not apply when:

(a) anaesthesia is judged to be more traumatic to the animal than the experiment itself;

(b) anaesthesia is incompatible with the object of the experiment. In such cases appropriate legislative and/or administrative measures shall be taken to ensure that no such experiment is carried out unnecessarily.

Anaesthesia should be used in the case of serious injuries which may cause severe pain.

3. If anaesthesia is not possible, analgesics or other appropriate methods should be used in order to ensure as far as possible that pain, suffering, distress or harm are limited and that in any event the animal is not subject to severe pain, distress or suffering.

4. Provided such action is compatible with the object of the experiment, an anaesthetized animal, which suffers considerable pain once anaesthesia has worn off, shall be treated in good time with pain-relieving means or, if this is not possible, shall be immediately killed by a humane method.

Article 9

1. At the end of any experiment, it shall be decided whether the animal shall be kept alive or killed by a humane method, subject to the condition that it shall not be kept alive if, even though it has been restored to normal health in all other respects, it is likely to remain in lasting pain or distress.

2. The decisions referred to in paragraph 1 shall be taken by a competent person, preferably a veterinarian.

3. Where, at the end of an experiment:

(a) an animal is to be kept alive, it shall receive the care appropriate to its state of health, be placed under the supervision of a veterinarian or other competent person and shall be kept under conditions conforming to the requirements of Article 5. The conditions laid down in this subparagraph may, however, be waived where, in the opinion of a veterinarian, the animal would not suffer as a consequence of such exemption;

(b) an animal is not to be kept alive or cannot benefit from the provisions of Article 5 concerning its well-being, it shall be killed by a humane method as soon as possible.

Article 10

Member States shall ensure that any re-use of animals in experiments shall be compatible with the provisions of this Directive.

In particular, an animal shall not be used more than once in experiments entailing severe pain, distress or equivalent suffering.

Article 11

Notwithstanding the other provisions of this Directive, where it is necessary for the legitimate purposes of the experiment, the authority may allow the animal concerned to be set free, provided that it is satisfied that the maximum possible care has been taken to safeguard the animal's well-being, as long as its state of health allows this to be done and there is no danger for public health and the environment.

Article 12

1. Member States shall establish procedures whereby experiments themselves or the details of persons conducting such experiments shall be notified in

advance to the authority.

2. Where it is planned to subject an animal to an experiment in which it will, or may, experience severe pain which is likely to be prolonged, that experiment must be specifically declared and justified to, or specifically authorized by, the authority. The authority shall take appropriate judicial or administrative action if it is not satisfied that the experiment is of sufficient importance for meeting the essential needs of man or animal.

Article 13

1. On the basis of requests for authorization and notifications received, and on the basis of the reports made, the authority in each Member State shall collect, and as far as possible periodically make publicly available, the statistical information on the use of animals in experiments in respect of:

(a) the number and kinds of animals used in experiments;

(b) the number of animals, in selected categories, used in the experiments referred to in Article 3;

(c) the number of animals, in selected categories, used in experiments required by legislation.

2. Member States shall take all necessary steps to ensure that the confidentiality of commercially sensitive information communicated pursuant to this Directive is protected.

Article 14

Persons who carry out experiments or take part in them and persons who take care of animals used for experiments, including duties of a supervisory nature, shall have appropriate education and training.

In particular, persons carrying out or supervising the conduct of experiments shall have received instruction in a scientific discipline relevant to the experimental work being undertaken and be capable of handling and taking care of laboratory animals; they shall also have satisfied the authority that they have attained a level of training sufficient for carrying out their tasks.

Article 15

Breeding and supplying establishments shall be approved by or registered with, the authority and comply with the requirements of Articles 5 and 14 unless an exemption is granted under Article 19 (4) or Article 21. A supplying establishment shall obtain animals only from a breeding or other supplying establishment unless the animal has been lawfully imported and is not a feral or stray animal. General or special exemption from this last provision may be granted to a supplying establishment under arrangements determined by the authority.

Article 16

The approval or the registration provided for in Article 15 shall specify the competent person responsible for the establishment entrusted with the task of administering, or arranging for the administration of, appropriate care to the animals bred or kept in the establishment and of ensuring compliance with the requirements of Articles 5 and 14.

Article 17

1. Breeding and supplying establishments shall record the number and the species of animals sold or supplied, the dates on which they are sold or

supplied, the name and address of the recipient and the number and species of animals dying while in the breeding or supplying establishment in question.

2. Each authority shall prescribe the records which are to be kept and made available to it by the person responsible for the establishments mentioned in paragraph 1; such records shall be kept for a minimum of three years from the date of the last entry and shall undergo periodic inspection by officers of the authority.

Article 18

1. Each dog, cat or non-human primate in any breeding, supplying or user establishment shall, before it is weaned, be provided with an individual identification mark in the least painful manner possible except in the cases referred to in paragraph 3.

2. Where an unmarked dog, cat or non-human primate is taken into an establishment for the first time after it has been weaned it shall be marked as soon as possible.

3. Where a dog, cat or non-human primate is transferred from one establishment as referred to in paragraph 1 to another before it is weaned, and it is not practicable to mark it beforehand, a full documentary record, specifying in particular its mother, must be maintained by the receiving establishment until it can be so marked.

4. Particulars of the identity and origin of each dog, cat or non-human primate shall be entered in the records of each establishment.

Article 19

1. User establishments shall be registered with, or approved by, the authority. Arrangements shall be made for user establishments to have installations and equipment suited to the species of animals used and the performance of the experiments conducted there; their design, construction and method of functioning shall be such as to ensure that the experiments are performed as effectively as possible, with the object of obtaining consistent results with the minimum number of animals and the minimum degree of pain, suffering, distress or lasting harm.

2. In each user establishment:

(a) the person or persons who are administratively responsible for the care of the animals and the functioning of the equipment shall be identified;

(b) sufficient trained staff shall be provided;

(c) adequate arrangements shall be made for the provision of veterinary advice and treatment;

(d) a veterinarian or other competent person should be charged with advisory duties in relation to the well-being of the animals.

3. Experiments may, where authorized by the authority, be conducted outside user establishments.

4. In user establishments, only animals from breeding or supplying establishments shall be used unless a general or special exemption has been obtained under arrangements determined by the authority. Bred animals shall be used whenever possible. Stray animals of domestic species shall not be used in experiments. A general exemption made under the conditions of this paragraph may not extend to stray dogs and cats.

5. User establishments shall keep records of all animals used and produce them whenever required to do so by the authority. In particular, these records

shall show the number and species of all animals acquired, from whom they were acquired and the date of their arrival. Such records shall be kept for a minimum of three years and shall be submitted to the authority which asks for them. User establishments shall be subject to periodic inspection by representatives of the authority.

Article 20

When user establishments breed animals for use in experiments on their own premises, only one registration or approval is needed for the purposes of Article 15 and 19. However, the establishments shall comply with the relevant provisions of this Directive concerning breeding and user establishments.

Article 21

Animals belonging to the species listed in Annex I which are to be used in experiments shall be bred animals unless a general or special exemption has been obtained under arrangements determined by the authority.

Article 22

1. In order to avoid unnecessary duplication of experiments for the purposes of satisfying national or Community health and safety legislation, Member States shall as far as possible recognize the validity of data generated by experiments carried out in the territory of another Member State unless further testing is necessary in order to protect public health and safety.

2. To that end, Member States shall, where practicable and without prejudice to the requirements of existing Community Directives, furnish information to the Commission on their legislation and administrative practice relating to animal experiments, including requirements to be satisfied prior to the marketing of products; they shall also supply factual information on experiments carried out in their territory and on authorization or any other administrative particulars pertaining to these experiments.

3. The Commission shall establish a permanent consultative committee within which the Member States would be represented, which will assist the Commission in organizing the exchange of appropriate information, while respecting the requirements of confidentiality, and which will also assist the Commission in the other questions raised by the application of this Directive.

Article 23

1. The Commission and Member States should encourage research into the development and validation of alternative techniques which could provide the same level of information as that obtained in experiments using animals but which involve fewer animals or which entail less painful procedures, and shall take such other steps as they consider appropriate to encourage research in this field. The Commission and Member States shall monitor trends in experimental methods.

2. The Commission shall report before the end of 1987 on the possibility of modifying tests and guidelines laid down in existing Community legislation taking into account the objectives referred to in paragraph 1.

Article 24

This Directive shall not restrict the right of the Member States to apply or adopt stricter measures for the protection of animals used in experiments or for

the control and restriction of the use of animals for experiments. In particular, Member States may require a prior authorization for experiments or programmes of work notified in accordance with the provisions of Article 12 (1).

Article 25

1. Member States shall take the measures necessary to comply with this Directive by 24 November 1989. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

Article 26

At regular intervals not exceeding three years, and for the first time five years following notification of this Directive, Member States shall inform the Commission of the measures taken in this area and provide a suitable summary of the information collected under the provisions of Article 13. The Commission shall prepare a report for the Council and the European Parliament.

Article 27

This Directive is addressed to the Member States.

DONE AT BRUSSELS, 24 NOVEMBER 1986.

For the Council
The President
W. Waldegrave

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1. OJ No C 351, 31, 12. 1985, p. 16.
 2. OJ No C 255, 13, 10. 1986, p. 250.
 3. OJ No C 207, 18.8. 1986, p.3.
 4. OJ No L 384, 31, 12. 1982, p.1.

THE AUSTRALIAN ANIMAL WELFARE MOVEMENT

Legislation

The birth of the current animal welfare movement in Australia can be traced to the publication by Peter Singer of *Animal Liberation* in the mid-1970s. Animal experimentation and the activities of rural industry were identified as key areas of animal use for abolition and reform. While the reforms of the last decade in Australia in the field of animal welfare are far from exclusively to be identified in these two areas, they serve to typify "changing community attitudes towards animals" in this country (J. R. Cornwall, South Australian Parliamentary Debates, 1985) with "an increase in demonstrable concern for all living beings" (R. I. Knowles, Victorian Parliamentary Debates, 1986).

A genuine concern for animal welfare beyond merely protecting their value as property has had a long heritage in Australia, a country whose citizens con-

tinue to recognize a sympathy for the underdog as part of their national character. Newspaper clippings dating from the turn of the 19th Century (within two decades of the settlement of this country as a British convict colony) frequently describe the "indignation and abhorrence" excited by acts of cruelty in the community.

By 1881, the philosophy of animal protection was sufficiently well accepted that Alfred Deakin, later Prime Minister of Australia, introducing animal welfare legislation into the Victorian Parliament, was able to conclude that upon such a measure "there were no opponents to convince or antagonists to disarm." However, the appreciation of the "cruelty" of an act has inevitably been circumscribed by the community's perception of the necessity or otherwise of the animal's suffering. The last decade in Australia has been characterized by a fundamental revision of the perception of "necessary" suffering and of the place of pure economic values in that calculation. It is in relation to the rural community and medical experimentation that these reforms are most apparent.

The legislation of the Australian States has traditionally characterized "accepted farming practices" as involving "necessary" suffering and therefore not cruelty within the ambit of animal protection legislation. However, in 1986, Victoria passed legislation providing merely that the "Act does not apply to . . . any act or practice with respect to the farming . . . of any farm animal which is carried out in accordance with a Code of Practice" (s. 6(c)).

The fear was expressed in debate upon the Bill that as no general exemption existed, a farmer engaging in otherwise normal farming practices might nevertheless have failed to comply with the more onerous requirements under a Code of Practice and would now fall within the cruelty provisions of the Act. Such direct interference with farming practices was challenged as failing to recognize the fundamental economic importance of the rural community to the State—an importance similarly characteristic of the national economy.

Australia's economic dependence on rural industry would clearly have been influential in the exemption of farming practices from the operation of the legislation in the early part of the 20th Century. While that concern was perhaps always less persuasive in Victoria than in other more rural Australian States, it has certainly proved inadequate to prevent the Victorian Parliament sanctioning the external regulation of animal management practices within the rural community since 1986.

In that same year, regulations introduced under the South Australian legislation prescribed various Codes of Practice for the Welfare of the Pig and Domestic Fowl and for the Road and Rail Transport of Livestock. These Codes recognize as the "basic requirement for the welfare" of animals "a husbandry system appropriate to their psychological and behavioural needs."

Significant changes have similarly occurred in the regulation of animal experimentation in Australia over the last decade.

The complete revision of the English procedures in the Animals (Scientific Procedures) Act 1986 has been paralleled in Australia by similar revisions in New South Wales, Victoria and South Australia. The comprehensive licensing of experiments was sought in Queensland as early as 1977. However, the first such provision was not made until 1985 and then only in South Australia and New South Wales. Victoria did not introduce similar legislation until the following year. Since the middle of 1982, Victoria had required that registered animal experimenters provide details of animals used in their experiments and abide by the provisions of the national code of practice for the care and use of

animals for experimental purposes.

These three jurisdictions have now extended such controls, providing a comprehensive system of licensing for scientific establishments and others engaging in animal experimentation and for the creation of Animal Ethics Committees to supervise the conduct of such research. In New South Wales, the legislation requires that at least one member of such a committee be a person who is neither associated with any accredited research establishment nor involved in the conduct of, or the supply of animals for, animal research (s. 13(5)). Under the South Australian legislation at least one member of an Animal Ethics Committee must be a person "with an established commitment to the welfare of animals" (s. 23(3)(d)).

Moreover, there is provision in the legislation of these three States to require compliance in the conduct of any experimentation with any relevant Codes of Practice. The most recent revision of the Australian Code of Practice for the Care and Use of Animals for Scientific Purposes (5th edition, presently in press) imposes the obligation to consider the animal's "welfare as an essential factor," providing, for example, confinement of the animal by means that "ensure [its] comfort and well-being," taking into account such factors as its natural environmental and behavioural requirements.

Recognizing the steps which have already been taken "to promote a more ethical approach to animal experimentation and animal welfare" (at 213), the Senate Select Committee on Animal Welfare in its 1989 report on animal experimentation recommended that all Australian States and Territories adopt the initiatives taken in New South Wales, Victoria and South Australia. Its recommendations included the complete abolition of both the Draize and LD₅₀ tests in Australia. While the impact of this report has yet to be determined, Queensland and the Australian Capital Territory are presently in the process of following New South Wales, Victoria and South Australia in the complete revision of their animal protection legislation.

Philip Jamieson
Law Faculty
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Relevant Legislation and Materials

Animal Research Act 1985 (NSW)

Prevention of Cruelty to Animals Act 1986 (Vict)

Prevention of Cruelty to Animals Act 1985 (SA)

Animal Experimentation: Report by the Senate Select Committee on Animal Welfare 1989

Australian Code of Practice for the Care and Use of Animals for Scientific Purposes (5th edition in press)

EXCERPT FROM THE 1986 AUSTRALIAN PREVENTION OF CRUELTY TO ANIMALS REGULATIONS

Regulation of Certain Scientific Procedures

24. (1) A person must not carry out any scientific procedure or series of related scientific procedures known as the Draize test to determine the relative irritancy of a chemical or a cosmetic, toilet, household or industrial preparation, using the conjunctival sac of rabbits.

(2) A person must not carry out any scientific procedure or series of related scientific procedures involving lethal dose testing unless—

(a) the scientific procedure is related to potentially lifesaving treatment or research in connection with cancer in human beings; and

(b) the objective of the scientific procedure cannot be achieved by any other scientific means; and

(c) the scientific procedure is recommended for approval by a Peer Review Committee established under section 34 of the Act; and

(d) the scientific procedure is approved by the Minister; and

(e) the scientific procedure is carried out in accordance with any conditions determined by the Minister.

(3) For the purposes of this Regulation, “lethal dose testing” is any test for determining the relative toxicity of a chemical or a cosmetic, toilet, household or industrial preparation in which the object of the test is to assess the toxicity of the preparation against a predetermined level of mortality.

LAWS ON DOG STEALING

By judicial decision or specific statute, dogs are declared to be personal property, in which case dog larceny is included within the general larceny statute of the following states:

Arizona (1-215[25])
California (PC 491)
Colorado (39-1-102[11])
Connecticut (22-350)
Delaware* (7.1707)
District of Columbia* (47-2004)
Florida (77-342)
Georgia (16-8-2)
Hawaii (708-830)
Idaho (25-2807)
Illinois (38-15-1)
Indiana (35-43-4-2)
Iowa (714.1)
Kansas (79-1301)
Kentucky (514.030)
Maine (17-A-353)
Maryland (27-340[8])

Nebraska (54-601)
Nevada (193.010.19)
New Jersey (2C:20-1[g])
New Mexico (30-16-1)
North Dakota (47-01-08)
Ohio (955.03)
Oklahoma (21-1717)
Oregon (609.020)
Pennsylvania (3-459-601)
South Dakota (43-2-2)
Tennessee (67-601)
Utah (76-6-401[1])
Virginia (29-213.7)
Washington (9A.04.110)
West Virginia (19-20-1)
Wyoming (11-36-102)
American Samoa (12-1651)

Minnesota (609.52-1[1])
 Missouri (570.010)
 Montana (45-2-101[54][h])

Canal Zone (4.111, 4.112)
 Virgin Islands (19.2602)

States in which dog larceny is in a statute separate from that of general larceny:

Arkansas (47.525-528)
 Louisiana (14:67.2)
 Massachusetts (266-47)
 Michigan (12.537[1])
 Mississippi (97-17-51)
 New Hampshire*† (466:42-a)
 New York (A & M 366)

North Carolina (14-81 and 14-84)
 Rhode Island (11-41-8)
 South Carolina (16-13-60)
 Texas (7147)
 Vermont (948.03)
 Wisconsin (13.481)
 Puerto Rico (33.1700)

* Only licensed or taxed dogs are protected.

† The value of the dog is protected by specific statute.

() Numbers within parentheses indicate the statute number.

PENALTIES FOR CONVICTION OF DOG LARCENY

I. States in which there is a single degree of crime:

Connecticut:	up to \$200 and/or 6 months; for second offense or more than one dog: up to \$500 and/or 1 to 3 years. (22-351)
Delaware:	\$5 to \$50 or in default up to 10 days. (7-1714)
Indiana:	fixed term of 2 years and up to \$10,000. (35-50-2-7)
Louisiana:	\$100 to \$500 and/or 3 to 6 months; for second offense: from \$500 to \$1,000 and 1 to 2 months. (14:67.2)
Massachusetts:	up to \$1,000 and/or up to 1 year. (266.47)
Michigan:	\$50 to \$100 and/or 2 to 3 months in county jail. (12.537[1])
Mississippi:	up to \$500 and/or up to 6 months, or 1 to 2 years in state penitentiary. (97-17-51)
New Hampshire:	up to \$250 and up to 1 year. (466:42-a)*
New York:	up to \$200 and/or up to 6 months. (A & M 366)
North Carolina:	punishable by fine and/or up to 2 years. (14-3) Upgraded in 1989 to Class J felony.
Puerto Rico:	\$100 to \$500 and/or 30 days to 1 year. (33.1700)
Rhode Island:	up to 1 year and/or up to \$500. (11-41-8)
South Carolina:	up to \$500 and/or up to 6 months. (16-13-60)

Vermont:	\$100 to \$400 and/or 60 days. (13-481)
Virginia:	1 to 10 years, or 12 months in county jail and/or \$1,000. (18.2-10; 18.2-97)
Wisconsin:	forfeiture up to \$200; if intentional or negligent, up to \$10,000 and/or up to 9 months. (948.18)**

*liable for the value of the dog. (625.9)
**In addition, the district attorney may apply for a temporary or permanent injunction to restrain violators.

PENALTIES FOR CONVICTION OF DOG LARCENY

II. States in which there are multiple degrees of punishment based on the value of the dog:

State	Larceny Defined	Penalties According to Value	Penalty Section
Arizona	13-801	more than \$1,000 (13-802): 5 years and up to \$150,000	13-701; 13-801
		\$500 to \$1,000 (13-802): 4 years and up to \$150,000	13-701; 13-801
		\$250 to \$500 (13-802): 2 years and up to \$150,000	13-701; 13-801
		\$100 to \$250 (13-802): 1½ years and up to \$150,000	13-701; 13-801
		less than \$100 (13-802): 6 months and not more than \$1,000	13-701-13-802
Arkansas	41-2203	more than \$100 but less than \$2,500: 4 to 10 years and/or up to \$10,000	For imprisonment: 41-901
		\$100 or less: up to 1 year and/or up to \$1,000	For fine: 41-1101
California	Penal 487	more than \$400 (Penal 487e): up to 1 year in county jail	Penal 489
	Penal 488	\$400 or less (Penal 487f): up to \$1,000 and/or 6 months	Penal 490
Colorado	18-4-401	Minimum Sentence (18-4-401) \$200 or more: up to \$2,000 or 1 day	18-1-105

PENALTIES FOR CONVICTION OF DOG LARCENY, *continued*

<i>State</i>	<i>Larceny Defined</i>	<i>Penalties According to Value</i>	<i>Penalty Section</i>
Colorado, cont'd		more than \$50 but less than \$200: up to \$250 and/or 3 months	18-1-106
		\$50 or less: up to \$500 and/or 6 months in the state prison	18-1-107
		<i>Maximum Sentence</i> (18-4-401) \$200 or more: up to \$30,000 and/or 10 years	18-1-105
		more than \$50 but less than \$200: up to \$1,000 and/or 1 year	18-1-106
		\$50 or less: up to \$500 and/or 6 months in the state prison	18-1-107
District of Columbia	22-2201	more than \$100: 1-10 years	22-2201
		\$100 or less: up to \$200 and/or 1 year	22-2202
Kentucky	514.030	\$100 or more (514.030): up to \$10,000 or double the gain from commission of the offense, whichever is greater and/or 1 to 5 years	534.030 532.060
		less than \$100 (514.030): up to \$500 and/or up to 12 months	534.040 534.090
Maine	17-A-353	more than \$1,000 but less than \$5,000 (17-A-362): up to \$2,500 and/or up to 5 years	For imprisonment 17-A-1252
		more than \$500 but less than \$1,000 (17-A-362): up to \$1,000 and/or up to 1 year	For fine: 17-A-1301
		\$500 or less (17-A-362): up to \$500 and/or up to 6 months	
Maryland	27-340; 27-342	\$300 or more (27-342): up to \$1,000 and/or up to 15 years	27-342
		less than \$300: up to \$500 and/or up to 18 months	27-343

PENALTIES FOR CONVICTION OF DOG LARCENY

<i>State</i>	<i>Larceny Defined</i>	<i>Penalties According to Value</i>	<i>Penalty Section</i>
Minnesota	609.52(1)	more than \$2,500: up to 10 years and/or up to \$10,000	609.52(3)
		more than \$150 but less than \$2,500: up to 5 years and/or up to \$5,000	609.52(3)
		\$150 or less: up to 90 days and/or up to \$500	609.52(3)
Montana	45-6-301	more than \$150: up to 10 years	45-6-301(5)
		\$150 or less: up to \$500 and/or 6 months in the county jail	45-6-301(5)
Nebraska	28-509(5)	\$300 to \$1,000 (28-518): up to 5 years and/or up to \$10,000	28-105
		more than \$100 but less than \$300 (28-518): up to 1 year and/or up to \$1,000	28-106
		\$100 or less (28-518): up to 6 months and/or up to \$1,000	28-106
Nevada	205.220	more than \$100: 1 to 10 years and/or up to \$10,000	205.220
	205.240	\$100 or less: up to \$1,000 and/or up to 6 months; in lieu of either penalty, a fixed period of work for the benefit of the community	205.240
New Jersey	2C:20-2	more than \$500 (2C:20-2): up to \$7,500 and/or 3 to 5 years	For imprisonment: 2C:43-6
		\$200 to \$500 (2C:20-2): up to \$7,500 and/or up to 18 months	For fine: 2C:43-3
		less than \$200 (2C:20-2): up to \$1,000	
New Mexico	30-16-1	more than \$100 but less than \$2,500 (30-16-1): up to \$5,000 and/or 18 months	31-18-15
		\$100 or less (30-16-1): up to \$500 and/or up to 6 months	31-19-1

PENALTIES FOR CONVICTION OF DOG LARCENY

<i>State</i>	<i>Larceny Defined</i>	<i>Penalties According to Value</i>	<i>Penalty Section</i>
North Dakota	12.1-23.02	more than \$500 (12.1-23.05): up to 5 years and/or up to \$5,000	12.1-32.01
		\$250 or less (12.1-23.05): up to 1 year and/or up to \$1,000	12.1-32.01
Ohio	2913.02	\$300 to \$5,000 (2913.02): minimum 18 months; maximum 5 years and/or up to \$2,500	2929.11
		less than \$300: up to 6 months and/or up to \$1,000	2929.21
Oklahoma	21.1701;	more than \$50: up to 5 years	21.1705
	21.1704	\$50 or less: \$10 to \$100 and/or up to 30 days	21.1706
Florida	812.014	\$100 to \$20,000: up to 5 years and/or up to \$5,000	For imprisonment: 775.082
		less than \$100: up to 60 days and/or up to \$500	For fine: 775.083
Georgia	16-8-1;	\$500 or more: 1 to 10 years	16-8-12
	16-8-2	less than \$500: up to \$1,000 and/or 1 year in county jail*	17-10-3
Hawaii	708-830	more than \$200 (708-831): up to \$5,000 and/or an indeterminate term in prison	706-640; 706-660
		more than \$50 (708-832): up to \$1,000 and/or up to 1 year	706-640; 706-643
Idaho	18-2402	more than \$150 (18-2407): up to \$5,000 and/or 1 to 14 years	18-2408
		\$150 or less (18-2407): up to \$1,000 and/or 1 year	18-2408

*or confinement under the jurisdiction of the Board of Offender Rehabilitation in a state or county correctional institution for more than 6 months but not more than 12 months.

PENALTIES FOR CONVICTION OF DOG LARCENY

<i>State</i>	<i>Larceny Defined</i>	<i>Penalties According to Value</i>	<i>Penalty Section</i>
Illinois	38-16-1	more than \$300: up to \$10,000 and/or 2 to 5 years \$300 or less: up to \$1,000 and/or up to 1 year	38-1005-9-1; 38-1005-8-1 38-1005-9-1; 38-1005-8-3
Iowa	714.1	more than \$500 but less than \$5,000 (714.2): up to 5 years and/or up to \$1,000 more than \$100 but less than \$500 (714.2): up to 2 years and/or up to \$5,000 more than \$100 but less than \$150 (714.2): up to 1 year and/or up to \$1,000 \$50 or less (714.2): up to 30 days or up to \$100	902.9 903.1 903.1 903.1
Kansas	21.3701 (a)	more than \$100 (21-4501): minimum 1 to 3 years; maximum 10 years and/or up to \$5,000 \$100 or less (21-4502): up to 1 year in the county jail and/or up to \$2,500	21-4503 21-4503
Oregon	164.015	\$200 or more (164.055): up to \$100,000** and/or up to 5 years less than \$200 (164.045): up to \$2,500 and/or up to 1 year	161.625; 161.605 161.635; 161.615
Pennsylvania	18-3901	\$200 to \$2,000 (18-3903 [b]): up to \$10,000 and/or up to 5 years \$50 to \$200 (18-3903[b][1]): up to \$5,000 and/or up to 2 years less than \$50 (18-3903[b][2]): up to \$2,500 and/or up to 1 year	For imprisonment: 18-1104 For fine: 18-1101
South Dakota	22-30A-1	more than \$200 (22-30A-17): up to 10 years and/or \$10,000	22-6-1

*continued***maximum sentence for *all* classes of felonies, in this instance Class C.

PENALTIES FOR CONVICTION OF DOG LARCENY

<i>State</i>	<i>Larceny Defined</i>	<i>Penalties According to Value</i>	<i>Penalty Section</i>
South Dakota, cont'd		\$100 or more (23A-45-9[1]): 1 year in county jail and/or \$1,000	22-6-2
		less than \$100 (23A-45-9[2]): up to 30 days in county jail and/or \$100	22-6-2
Tennessee	39-3-1101	more than \$200 (39-3-1103): 3 to 10 years	39-3-1104
		\$200 or less (39-3-1102): 1 to 5 years	39-3-1104
Texas	31.01	\$200 to \$10,000 (31.03[4]): 2 to 10 years and/or up to \$5,000	12.34
		more than \$20 but less than \$200 (31.03[3]): up to \$2,000 and/or 1 year	12.21
		more than \$5 but less than \$20 (31.03[d][2][A]): up to \$1,000 and/or 6 months	12.22
Utah	76-6-404	more than \$1,000 (76-6-412): 1 to 15 years and/or up to \$10,000	76-3-203(2); 76-3-301(1)
		more than \$250 but less than \$1,000 (76-6-412): up to 5 years and/or up to \$5,000	76-3-203(3); 76-3-301(2)
		more than \$100 but less than \$250 (76-6-412): up to 1 year and/or up to \$1,000	76-3-204(1); 76-3-301(3)
		\$100 or less (76-6-412): up to 6 months and/or up to \$299	76-3-204(2); 76-3-301(4)
Washington	9A.56.010(7) 9A.56.020	more than \$1,500 (9A.56.030): up to 10 years and/or \$20,000	9A.20.020
		more than \$250 but less than \$1,500 (9A.56.040): up to 5 years in the state penitentiary and/or \$10,000	9A.20.020
		\$250 or less (9A.56.050): up to 1 year in the county jail and/or up to \$5,000	9A.20.020

PENALTIES FOR CONVICTION OF DOG LARCENY

<i>State</i>	<i>Larceny Defined</i>	<i>Penalties According to Value</i>	<i>Penalty Section</i>
West Virginia	19-20-12	more than \$20: up to 1 year in the county jail and/or up to \$200	19-20-12
		\$20 or less: up to 6 months and/or \$50	19-20-12
Wyoming	6-7-301	more than \$100: up to 10 years	6-7-301
	6-7-302	\$100 or less: 6 months in the county jail and/or \$100	6-7-302
American Samoa	16.641 (a) (b)	more than \$25: up to \$1,000 and/or 5 years	15.641 (d)
		\$25 or less: up to \$150 and/or 6 months	15.641 (e)
Canal Zone	6.1341	more than \$100: up to 10 years	6.1342
		\$100 or less: up to \$100 and/or 30 days	6.1343
Virgin Islands	14.1081	more than \$100: up to 10 years	14.1083
		\$100 or less: up to \$200 and/or up to 1 year	

GREASED PIG CONTESTS AND TURKEY SCRAMBLES

MINNESOTA. Section 343.36. *Greased pig contests and turkey scrambles.* No person shall operate, run or participate in a contest, game, or other like activity, in which a pig, greased, oiled or otherwise, is released and wherein the object is the capture of such pig, in which a chicken or turkey is released or thrown into the air and wherein the object is the capture of such chicken or turkey. Any violation of this act shall be a misdemeanor.

[The penalty for the above misdemeanor is imprisonment not exceeding 90 days and/or a fine not exceeding \$500 (Section 609.03).]

RHODE ISLAND. Section 4-1-28. *Greasy pig contest prohibited.* It shall be unlawful for any person as defined in §4-1-1 to conduct any greasy pig contest, so called, within the state of Rhode Island. Any person violating this section shall be subject to the provisions of §4-1-2.

[The penalty stated in § 4-1-2 is a term of imprisonment not exceeding 11 months and/or a fine of from \$50 to \$500.]

**MASSACHUSETTS DEPARTMENT OF FOOD AND AGRICULTURE
RULES GOVERNING "PULLING CONTESTS"**

**Division of Fairs
1990**

Rules prefixed **O** apply to oxen only.

Rules prefixed **H** apply to horses only.

Rules prefixed **P** apply to ponies only.

All other rules apply equally to horses, ponies and oxen

1. There shall be a superintendent and three judges in charge at all drawing contests. They shall be vested with the authority to disqualify any team or driver for any cause that in their judgement might be detrimental to the best interest of the public, animals, or the organization conducting the contest.
2. The judges or superintendent shall be qualified in stone boat contests and shall have full jurisdiction to decide the weight of the load at any time and to decide anything relative to the actual drawing. Out of state teams shall be permitted to enter the contest if the judges or superintendent deem it advisable.
3. Any individual, firm or corporation found guilty of administering drugs which may affect the conduct, actions, endurance, strength, speed or performance of any animal competing in any pulling competition within the Commonwealth of Massachusetts, shall forfeit all prize monies won that day and shall be barred from any pulling competition for the next calendar year. Second offenders shall be punished by forfeiture of prize monies and the individual, firm or corporation shall be barred for life in any pulling competition held in the Commonwealth of Massachusetts.
4. Any owner and/or teamster who has been convicted, or found in violation in any other state's statute relating to the use of drugs or stimulants, or other animal protection statute shall be barred from participation in any contest, in this state, for the period prescribed by that state.
5. Any team disqualified by an agent of Humane Society appointed under Chapter 147, Section 10, of the M.G.L. shall be taken out of the contest immediately. Before any team is taken out, there should be consultation among the Humane Society, superintendent and judges, and so announced to the public by the judges.
6. All participants will be properly dressed. Any exhibitor, judge or superintendent who has been drinking alcoholic beverages will be disqualified from the contest and removed from pulling area. Breathalyzers may be used at pulling events to determine if an individual has been drinking. The drinking of alcoholic beverages in and around the ring is prohibited. Any foul or abusive language to the public or anyone connected with the draw, by the driver or his helpers, will cause the driver and team to be disqualified immediately.

7. Sores and abrasions caused or likely to be irritated by the bearing surface of harnesses or yokes will deem the animal unfit for use in the contest, decision to be made by superintendent or judges.
8. Teams deemed uncontrollable will be immediately disqualified by the superintendent or judges and removed from the contest.
9. **H-P** All horses and ponies to compete in contest, other than Free-For-All teams, shall be weighed in no earlier than three hours before omission. Check weighing will be permitted before the three hour period only. Horses must wear halters while on scale. All horses and ponies will be weighed in the presence of a delegate appointed by the fair, or person who is conducting the contest. The delegate shall present weigh-bill to the teamsters, a copy of which is to be kept by said delegate, certifying the horses or ponies name and disruption, also the exact time of weighing. The scale shall be balanced with a person standing on same, this person will hold all horses or ponies where possible. The person holding horses or ponies shall be appointed by the delegate if he/she is unable to do this himself/herself. The weighing certificate must be signed by the delegate.
10. **O** Time of weighing to be left to discretion of fairs associations. Scales shall be certified within one month prior to contest.
11. **P** Pony pulling will be classed as follows: 1,400 lbs. and under and over 1,400 lbs.
12. **O** All weight classes shall be in multiples of four hundred pounds with the exception of Free-For-All.
13. **P** All ponies must be measured to pull in contest. All ponies not to exceed 50 inches, to be measured from the bottom of the coronary to the 3rd vertebra and 2nd groove, with caliper and level. With a time limit of three (3) minutes for owner or his representative to hold pony by halter and with voice command place pony on 30 x 60 inch pad.
14. **H-P** Once a team has been weighed in, there will be no switching of horses. Split owners teams will be allowed to compete for premiums. Any horses claimed by owner will remain his horse and only his, for the duration of fair or contest.
15. **H** Starting load-maximum load of 4,000 lbs. for all weight classes and 5,000 lbs. for Free-For-All classes. Added loads in each class at the discretion of the judges depending on type of pit. At no time after weight has been decreased, may it be increased.
16. **P-O** Starting load, and all added loads, to be at the discretion of the judges. At no time after weight has been decreased, may it be increased.
17. Pulling positions to be determined by the drawing of numbers just before starting of each class.
18. All teamsters to compete in contest shall have their teams ready at the published time. All classes will close at the completion of the first heat in each class.

19. There shall be a time limit of 5 minutes all told. Time will be taken out while the boat is positioned for the next hitch. The time will be kept by the announcer, or appointed time-keeper.
20. **H-P** There will be no heading of horses whatsoever. Teams to be driven by one teamster only.
21. **P** Use of reins is prohibited for any other purpose than to guide the team. Hats and hands on hind-quarters only. Hands must be in sight at all times.
22. **H-O** A hitch is constituted by 1 inch or more.
23. **P** A hitch is constituted by 3 inches or more.
24. Breakdown. An actual separation, breaking or bending of equipment shall constitute a breakdown. In event teamster and/or owner wish credit for the distance boat moved before breakage, it will constitute a hitch.
25. Over the rail. If an animal's foot strikes dirt outside the rail it constitutes a hitch with no credit for the distance pulled. Teams must remain within the rail while hitched to the boat.
26. Any team deliberately driven over the rail will be disqualified from the contest.
27. Each team shall be disconnected from the boat and will leave the pit before entering for the next hitch.
28. Starting point of boat shall be properly marked to indicate same starting point for all loads. The distance of each pull will be measured from the center of the boat to the most recent pin. All teams will be allowed 3 hitches to qualify the load.
29. The boat shall be returned to the starting pin after each hitch.
30. All teams shall remain in the ring, at all times, until class is completed.
31. In case of a tie on longest distance, the second longest distance already pulled will take the top placing.
32. Changing teamsters. No teamster may be changed after pulling the first load in any class except in emergency. Then only when permitted by the judges, with consent of a majority of the other teamsters, in that class.
33. **H-P** Interference of Evener Men. No assistance other than hitching.
34. **O** Hitchers will not be allowed to twist tails or use the chain or any other device to stimulate the cattle. They cannot carry anything in their hands but the chain to hitch the cattle. They shall stand back of the boat at a distance prescribed by the judge.
35. **O** Classes shall be as publicized in Premium Booklet only.
36. **O** A twisted whip only with a braided lash may be used in the pit or on the fairgrounds.

37. Method of pull: Three hitches with a 5 minute time limit. The boat to be pulled back to the starting pin after each hitch. Ox pulls may opt to have 5 hitches and boat not go back to pin after each hitch.
38. O The whip shall only be used to guide the oxen outside of the pit area. The whip may be used lightly to place the oxen, after being hitched to the boat. Then the oxen may be touched once only to start the boat and once only while the boat is in motion.
39. O The chain shall not be hitched to the boat while it is under, around or in front of the oxen's legs. (Only when the chain is between the animals.)
40. O No driver shall strike the ox in the face or anywhere about the head with the whip.
41. The only persons allowed in the pit area are Fair officials, drivers, the person hitching the boat, agents of the Humane Society appointed under Chapter 147, Section 10, M.G.L. and Division of Fairs Inspectors.
42. Contestants will lose one hitch per violation for minor infraction of 35-40.
43. O All calves over the age of 6 months must be castrated to show or enter any classes.
44. O Age of oxen and steers should be judged as of day of event.
45. O No steers should be in draft classes who do not weigh 2,000 lbs. per pair without the yoke.
46. H The number of times a horse draws will be left up to the discretion of the Fair.
47. H In horse pulls the use of reins as a whip is prohibited. The light use of the reins in a side arm motion in the area from the root of tail the butcher area will be permitted, any whipping will result in disqualification. Loop of lines or reins not to exceed 18 inches with no buckles exposed.
48. Pit care. The pit will be covered the day before the draw, where it is possible.
49. Any variation of these rules shall be in the spirit of aforesaid rules and at the discretion of the judges.

NOTE: Legislation prohibiting persons convicted of animal abuse from participating in pull events has been signed into law in the State of Maine.

In May 1974, Massachusetts enacted the following legislation:

Chap. 204. AN ACT PROHIBITING THE ADMINISTERING OF DRUGS TO HORSES PARTICIPATING IN CONTESTS AT AGRICULTURAL FAIRS.

Be it enacted, etc., as follows:

Chapter 128 of the General Laws is hereby amended by inserting after section 2B the following section:

Section 2C. No person shall administer or cause to be administered any drug, internally or externally by injection, drench or otherwise, to any animal for the purpose of retarding, stimulating or in any other manner affecting the performance of such animal in or in connection with a contest conducted under the provisions of paragraph (f) of section two.

The commissioner is hereby authorized to make such tests of the saliva or urine of any animal entered in a pulling contest as he may deem necessary. If a drug is found in the chemical analysis of said saliva or urine, it shall be *prima facie* evidence that a drug has been administered.

The owner of any animal which has been tested and in which a drug has been found, his representative, and any animals owned by or leased to such person shall be ineligible to participate in or receive premiums offered at any agricultural fair or any pulling contest in the commonwealth pending an investigation, finding, and order of the commissioner.

The commissioner may make rules and regulations necessary to carry out the provisions of this section.

STATE LAWS PROHIBITING USE OF LIVE BIRDS AS TARGETS TO BE SHOT AT

CONNECTICUT

Section 26-96. *Trap shooting.* No person shall keep, expose, let loose or suffer to escape any bird or fowl for the purpose of having it shot at for sport, gain, the trial of skill of marksmen or any other purpose, nor shall any person shoot at any bird or fowl that has been kept, exposed, let loose or allowed to escape for the purpose of being shot at. The provisions of this section shall not prohibit the release of legally propagated game birds or the subsequent shooting of such birds during the open season or any extension of such open season.

[Penalty for violation: fine of not less than ten dollars nor more than two hundred dollars and/or not more than thirty days' imprisonment (Section 26-98).]

IOWA

Section 109.21. *Birds as targets.* No person shall keep or use any live pigeon or other bird as a target, to be shot at for amusement or as a test of skill in marksmanship, or shoot at a bird kept or used for such purpose, or be a party to such

shooting, or lease any building, room, field, or premises, or knowingly permit the use thereof, for the purpose of such shooting. Nothing in this section shall prevent any person from shooting at live pigeons, sparrows, crows and starlings when used in the training of hunting dogs.

[Penalty for violation: simple misdemeanor (Section 109.32).]

MASSACHUSETTS

Section 272-87. *Keeping or using birds to be shot at; shooting them; permitting premises to be used for shooting.* Whoever keeps or uses any live bird, to be shot at either for amusement or as a test of skill in marksmanship, or shoots at a bird kept or used as aforesaid, or is a party to such shooting, or lets any building, room, field or premises, or knowingly permits the use thereof, for the purpose of such shooting, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than one month, or both. Nothing herein contained shall apply to the shooting of wild game.

MICHIGAN*

Section 750.49. *Animals; fighting, baiting or shooting.* (1) A person who owns, possesses, keeps, or uses any bull, bear, dog, cock, or other animal, or fowl, or bird for the purpose of fighting, baiting, or as a target to be shot at, as a test of skill in marksmanship; and a person who is a party to or who causes any such fighting, baiting, or shooting of any bull, bear, dog, cock, or other animal, or fowl, or bird; and a person who shall rent or otherwise obtain the use of a building, shed, room, yard, ground, or premises for the purpose of fighting, baiting, or shooting any animal, fowl, or bird or shall knowingly suffer or permit the use of a building, shed, room, yard, ground, or premises belonging to him or under his control, for any of the purposes described in this section, shall be guilty of a felony punishable by a fine of not more than \$5,000.00, or imprisonment for not more than 4 years, or both. (2) A person who is present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition described in subsection (1), or a person who is present at the exhibition, knowing that an exhibition is taking place or about to take place, is guilty of a misdemeanor. (3) All animals, equipment, devices, and money involved in a violation of this section shall be forfeited to the state.

NEW JERSEY

Section 4:22-23. *Use of live birds as targets; misdemeanor.* A person who shall: (a) Use a live pigeon, fowl or other bird for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship; (b) Shoot at a bird used as aforesaid or is a party to such shooting; or (c) Lease a building, room, field or premises, or knowingly permit the use thereof for the purpose of such shooting—Shall be guilty of a misdemeanor and shall, for each offense, be fined sixty dollars and an additional twenty-five dollars for each bird shot at or killed in violation of this section. This section shall not apply to the shooting of game.

*The Michigan law protects animals as well as birds.

OHIO

Section 959.17. *Trapshooting.* Live birds or fowl shall not be used as targets in trapshooting.

Section 959.99. Violation is a misdemeanor of the 4th degree.

[Penalty for violation: up to 30 days and/or up to \$250 (Section 2929.21).]

RHODE ISLAND

Section 4-1-16. *Use of birds as targets.* Every person who shall keep or use any live pigeon, fowl or other bird for the purpose of a target or to be shot at, either for amusement or as a test of skill in marksmanship, and every person who shall shoot at any bird as aforesaid or be a party to any such shooting of any fowl or bird, and every person who shall rent any building, shed, room, yard, field or premises, or shall knowingly suffer or permit the use of any building, shed, room, yard, field, or premises for the purpose of shooting any fowl or bird as aforesaid, shall be fined not exceeding twenty dollars (\$20.00) or be imprisoned not exceeding ten (10) days, or be both fined and imprisoned as aforesaid. Nothing herein contained shall apply to the shooting of any wild game in its wild state.

VERMONT

Section 13-407. *Shooting birds for amusement.* A person who keeps or uses a live pigeon to be shot at for amusement or as a test of skill in marksmanship, and a person who shoots at any bird as aforesaid, or who is a party to such shooting, and a person who rents a building, shed, room, yard, field or premises or knowingly permits or suffers the same to be used for the purpose of such shooting, shall be imprisoned not more than thirty days or fined not more than \$50.00, or both. Nothing herein contained shall apply to the shooting of any wild game in its wild state.

VIRGINIA

Section 18.2-395. *Shooting pigeons, etc., for amusement, and renting premises for such purposes.* Whoever keeps or uses a live pigeon or other bird or fowl for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship, or shoots at a bird kept or used as aforesaid, or is a party to such shooting, or lets any building, room, field, or premises, or knowingly permits the use thereof for the purpose of such shooting, shall be guilty of a Class 4 misdemeanor. Nothing herein contained shall apply to the shooting of wild game.

[Punishment for conviction of Class 4 misdemeanor: a fine not exceeding \$100 (Section 18.2-11).]

WEST VIRGINIA

Section 61-8-20. *Keeping or using live birds to be shot at; penalty.* Whoever keeps or uses a live bird to be shot at either for amusement or as a test of skill in marksmanship, or shoots at a bird kept or used as aforesaid, or is a party to such

shooting, or lets any building, room, field, or premises, or knowingly permits the use thereof, for the purpose of such shooting, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine of not more than fifty dollars or by imprisonment for not more than one month, or by both. Nothing herein contained shall apply to the shooting of wild game.

SHOOTING AT CAGED OR STAKED ANIMALS

WISCONSIN. Section 948.09. *Shooting at caged or staked animals.* No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from, or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon, any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size. Nothing in this section prohibits the shooting of any wild game in its wild state or the shooting of game birds and waterfowl at licensed game farms or licensed shooting preserves.

[The penalty for violation of §948.09 is a forfeiture up to \$200; if intentional or negligent, up to \$10,000 and/or up to 9 months' imprisonment. In addition, the district attorney may apply for a temporary or permanent injunction to restrain violators.]

FLORIDA STATE REGULATIONS

GAME AND FISH COMMISSION

Specific Authority: Art. IV, Sec. 9, Fla. Const. 372.021, 372.922. F. S. Law Implemented: 372.922. F. S. History: New—8-1-79; Amended 6-21-82; Previously numbered 39-6.03; 6-1-86

39-6.004 *Pen Specifications and Caging Requirements for Captive Wildlife*

(1) No captive wildlife shall be confined in any cage or other enclosure which contains more individual animals; or is smaller in dimension; or is not equipped as follows:

(a) New World monkeys

1. Marmosets

a. For one or two adults, a cage 3 feet by 2 feet, 4 feet high, with two perching branches and a nest box.

b. For each additional animal, increase cage size 25 percent of floor area.

2. Squirrel, titis, owl and other similar-sized monkeys

a. For one, two or three adults, a cage 4 feet by 5 feet, 5 feet high, with two perching branches and a nest box.

b. For each additional animal, increase cage size by 10 percent of floor area.

3. Medium-sized South American monkeys (capuchins, sakis) etc.

a. For one or two adults, a cage 5 feet by 5 feet, 6 feet high, with three parallel swinging bars.

b. For each additional animal, increase cage size by 25 percent of floor area.

4. Large South American monkeys (spiders, wooleys, howlers, etc.)

a. For one or two adults, a cage 6 feet by 6 feet, 8 feet high, with three parallel swinging bars and two perching areas.

b. For each additional animal, increase cage size by 25 percent of floor area.

(b) Old World monkeys

1. Macaques, guenons, mangabeys, langurs, etc.

a. For one or two adults, a cage 6 feet by 5 feet, 6 feet high, with three perching areas.

b. For each additional animal, increase cage size by 25 percent of floor area.

2. Baboons (mandrills, dog-faced, etc.)

a. For one or two adults, a cage 10 feet by 6 feet, 6 feet high, with two one-foot-wide resting shelves.

b. For additional animals, increase cage length three feet per animal.

(c) Apes

1. Gibbons

For up to four, a cage 12 feet by 6 feet, 8 feet high, with three parallel swinging bars at four-foot intervals in the top third of the cage.

2. Chimpanzees and orangutans

a. For a juvenile under 50 pounds, a cage 8 feet by 6 feet, 6 feet high. For an adult over 50 pounds, a cage 10 feet by 6 feet, 8 feet high.

b. For each additional animal, double floor area.

3. Gorillas

a. For one animal, a cage 14 feet by 12 feet, 8 feet high.

b. For each additional animal, double the floor area.

(d) Carnivores and certain omnivores with similar requirements

1. African lions and Asian tigers

a. For each animal, a cage 15 feet by 10 feet, 8 feet high, with a 3-foot by 10-foot shelf elevated three feet, and two claw logs.

b. For each additional animal, increase cage length five feet.

2. Jaguars, leopards, pumas

a. For each cat, a cage 10 feet by 8 feet, 8 feet high, with a 2-foot by 8-foot shelf elevated three feet, and two claw logs.

b. For each additional animal, increase cage length five feet.

3. Lesser cats (bobcats, lynx, ocelots, margay, etc.)

a. For each cat, a cage 8 feet by 4 feet, 6 feet high, with a shelf 14 inches by 4 feet elevated three feet, two claw logs and a den.

b. For each additional cat, increase cage length two feet.

4. Geoffroy's cats, leopard cats and other wild cats which average five pounds adult weight

a. For each cat, a cage 4 feet by 4 feet, 6 feet high, with a shelf 6 inches by 3 feet elevated three feet, and two claw logs.

b. For each additional cat, increase cage length one foot.

5. Cheetahs

a. For one cheetah, a cage 40 feet by 20 feet, 8 feet high, with a shelf 30 inches by 6 feet, elevated three feet.

b. For each additional animal, increase shelf length two feet.

6. Bears, six feet or more from rump to snout

a. For one bear, a cage 25 feet by 12 feet, 12 feet high. For polar bears, each cage shall be equipped with a 6-foot by 10-foot pool four feet deep. For other bears, each cage shall be equipped with a 4-foot by 6-foot pool three feet deep.

b. For each additional bear, increase cage length 12 feet.

7. Bears up to six feet from rump to snout

a. For each bear, a cage 20 feet by 10 feet, 10 feet high, with a 4-foot by 6-foot pool three feet deep.

b. For each additional bear, increase cage length 10 feet.

8. Sun bears

a. For each bear, a cage 12 feet by 8 feet, 6 feet high, with a 3-foot by 4-foot pool two feet deep.

b. For each additional bear, increase cage length three feet.

9. Raccoons, coati-mundi, sloth, tayra and others of similar size and habits, including North and South American porcupines and hyraxes

a. For each animal, a cage 6 feet by 5 feet, 6 feet high, with two climbing limbs, and a resting shelf.

b. For each additional animal, increase cage length two feet.

10. Kinkajous, opossums, pottos, grissons, gallagos, tamanduas, slow loris, genets, etc. (small climbing animals)

a. For each animal, a cage 4 feet by 4 feet, 6 feet high, with three climbing limbs.

b. For each additional animal, increase cage length one foot.

11. Squirrels, tree shrews, etc.

a. For one or two animals, a cage 3 feet by 2 feet, 6 feet high, with a nest box and three climbing limbs.

b. For each additional animal, increase cage length six inches.

12. Agouti, pacas, wild rabbits, acushi, skunks and other rabbit-sized ground animals

a. For each animal, a cage 6 feet by 3 feet, 3 feet high, with two gnawing logs.

b. For each additional animal, increase cage length one foot.

13. Badger, large-crested porcupine and similar-sized ground animals

a. For each animal, a cage 8 feet by 4 feet, 5 feet high, with two gnawing logs.

b. For each additional animal, increase cage length three feet.

AMERICAN ASSOCIATION OF ZOOLOGICAL PARKS AND AQUARIUMS ZOO STANDARDS FOR THE HOUSING OF NON-HUMAN PRIMATES

"In 1986, the American Association of Zoological Parks and Aquariums (AAZPA) was requested by the APHIS [Animal and Plant Health Inspection Service], Regulatory Enforcement and Animal Care Staff, to develop minimum zoo standards for the maintenance of non-human primates in captivity. The following "Zoo Standards for the Housing of Non-Human Primates" were compiled over a two-year period by an AAZPA committee of zoo professionals with expertise in the maintenance of non-human primates in captivity.

"These recommendations represent the minimum requirements for the maintenance of non-human primates in a zoological environment. AAZPA's committee did *not* consider standards for the maintenance of non-human primates in laboratory or research settings. To date, these are recommended industry standards and have not been adopted for use by APHIS or any other regulatory agency."

Robert O. Wagner, Executive Director
American Association of Zoological Parks and Aquariums

GENERAL INTRODUCTION

Species within the order Primates differ greatly in size, morphology, diet and social structure. For this reason it is impossible to present one set of minimum housing standards for all primate species. In this document we have attempted to divide the primates into broad groups, using the criteria outlined above, and to define the minimum requirements for each group. It cannot be overemphasized that we view these standards as minimal, not optimal, and that we strongly encourage zoos to consider the needs of the primates they hold on a species by species basis.

Primates, with very few exceptions, are social animals and should not be housed alone, except for medical reasons. Minimum size and composition of social groupings in captivity should reflect the minimum found in nature. Most primate young have extended developmental periods and receive high levels of parental care. During development, primate young require association with older conspecifics from whom they learn the species-specific behaviors they must have if they are to function as part of a social group, reproduce, and care for young. The preferred social group is one which provides the opportunity for such association, encourages activity and thereby promotes normal behaviors. Hand rearing is recommended only if parental care is inadequate or dictated by veterinary needs. It is strongly discouraged for more capricious reasons.

Exhibits should provide the amount of space necessary to promote natural and normal behavior within the social group. Quality exhibit space of sufficient size can reduce boredom, aggression, and stereotypic behavior, and has been shown to affect body weight, activity, water consumption and defecation (Manosevitz *et al.*, 1975).

REQUIREMENTS

Minimum requirements for exhibit size and furnishings, diet, and social grouping are presented for the following groups of primates: 1) Prosimian pri-

mates, 2) Marmosets and Tamarins, 3) other New World monkeys, 4) Langurs and Colobines, 5) other Old World monkeys, 6) lesser Apes, 7) great Apes.

Exhibit Environmental Requirements

Certain environmental requirements emerged for almost all the groups and are considered below. When requirements for a group differ from those outlined below, specific mention of this is included in the section on that group.

Temperature - Most primates originate in warm tropical climates and their exhibit areas should be maintained between 65 degrees minimum and 85 degrees maximum at all times. There are a few cold-tolerant species that do well year-round in outside exhibits; but if outdoor facilities are provided, when outdoor temperatures are at the upper or lower extremes of the above-mentioned range, or in times of inclement weather, animals should have access to indoor holding facilities (or nest boxes) which are within the 65-85 degree range. Outdoor facilities should include shaded areas of a size sufficient to allow all animals in the group to occupy space within the area.

Lighting - Most primate species are diurnal and require approximately 12 hours of light daily. Natural light from windows or skylights is the best light source, but should be supplemented by artificial light to insure adequate light levels. A minimum of 75 fc (Keeling, 1974) is required. Fluorescent lighting is an efficient light source and produces little heat. Fluorescent lighting providing full-spectrum illumination is suggested for primates that remain in indoor exhibits.

Ventilation and Humidity - Within exhibits negative air pressures, with 15 air changes per hour of non-recirculated air, are recommended (Keeling, 1974). The relative humidity of the exhibits should be within the range of 40-60%. Where possible separate ventilation systems should be maintained for animal exhibits and visitor/keeper areas.

Water - Fresh water should be available at all times. Water bowls, bubbler-type drinkers, or monkey activated sucking-type drinkers are adequate. Water bowls should be cleaned and disinfected daily.

Sanitation - Hard-surfaced primary enclosures and food and water pans should be cleaned daily with a detergent/disinfectant. Perches and shelves where animals climb and sit should receive special attention. Dirt floors and planted enclosures should be raked and spot-cleaned daily. Footbaths should be used prior to entering all primate enclosures, or areas containing enclosures. Each should be filled with a disinfectant and its use strictly adhered to by all personnel.

Veterinarian Care - Service of a veterinarian should be available. Periodic (minimum twice yearly) fecal examinations and cultures should be required. While occasional 1-2 day duration diarrhea is not uncommon and usually due to dietary preferences causing digestive imbalances, chronic diarrhea is significant and veterinarian intervention is required.

Opportunistic T.B. tests, rectal cultures, weights, etc. should be performed whenever an animal has to be handled. Upper respiratory infections, internal parasites, and digestive system bacterial infections must be monitored closely and treated appropriately.

I. PROSIMIAN PRIMATES: *Tarsiidae* (tarsiers), *Lorisiidae* (galagos, pottos, lorises), *Lemuridae* (lemurs), *Cheirogaleidae* (mouse lemurs), *Indriidae* (avahis, indris, sifakas), *Daubentoniidae* (aye-ayes).

There are 42 species of prosimian primates, divided among 6 families. Primates in this group range in size from 55-65 g (*Microcebus*) to 7-10 k (*Indri*); from solitary (*Daubentoniidae*) to large, permanent social groups (*Propithecus*); and from nocturnal, arboreal insectivores (*Microcebus*) to diurnal, terrestrial frugivores (*Lemus catta*) (Napier and Napier, 1985). For the most part they are reproductively photosensitive with a specific birth season. Gestations range from 60 days (*Microcebus*) to 160 days (*Propithecus*), and litters of one to three infants are the rule (MacDonald, 1985).

Tarsiidae

A. *Social Grouping*: Recently tarsiers have been described as solitary and social, with home ranges of males and females overlapping (Fogden, 1974). Tarsiers have been successfully maintained in pairs as well as small groups. The minimum social group should be a pair or mother-infant unit. The male of a pair should be removed temporarily after the birth of the infant.

B. *Exhibit Size*: The size of the exhibit should be large enough to accommodate the leaping ability of the genus. A pair of animals should be housed in a facility no smaller than 1 m wide x 1 m deep x 2 m high.

C. *Exhibit Furnishings*: Being arboreal, vertical clingers and leapers, the species should be housed in an exhibit furnished with vertical perches (preferably bamboo) on which to cling and locomote. These poles or perches should range from 0.5 cm to 2 cm in diameter but should not be any larger than 2 cm. At least one-half of the exhibit should be composed of pathways and branches to reduce conspecific stress. Nest boxes should also be provided (one per adult) and should be no smaller than 12.7 cm wide x 12.7 cm deep x 12.7 cm high with an entrance large enough to allow entry of a female and her offspring. A leaf-litter substrate can facilitate the maintenance of proper humidity (80%), but a cement floor is adequate.

D. *Environmental Requirements*: The nocturnal needs of the genus should be met with the animals having access to a natural light cycle. A reverse daylight cycle is acceptable using red or blue lights in combination with ultraviolet white light. Humidity should range from 70-85% and temperature, 80-85 degrees F.

E. *Diet*: Largely insectivorous (Fogden, 1974), captive populations are successfully maintained on a diet composed of crickets, mealworms, anole lizards and mouse pinkies. The vitamin and mineral needs of the animals are met by feeding crickets a vitamin/mineral supplement which is then utilized by the tarsier upon consumption of the cricket.

Lorisiidae

A. *Social Grouping*: Characterized as solitary and social (overlap between male and female home ranges) in nature (Charles-Dominique, 1977), species in this family are successfully kept as pairs (*Loris*) and family groups or matriarchies (*Galago*). The minimum social group should be no smaller than two animals, either the breeding pair or mother-infant, the latter with visual access to the temporarily isolated male (*Lorisinae*).

B. Exhibit Size: Ranging in size from 80 g (*Galago demidovii*) to 2 kg (*Galago crassicaudatus*) (Charles-Dominique, 1977), these solitary species should be housed in exhibits large enough to accommodate their solitary tendencies as well as meet their locomotor characteristics. Minimum exhibit dimensions for the smallest of the family should be approximately 1.5 m wide x 1.5 m deep x 1.5 m high for a pair. Exhibit size for the largest representative of the family should be no smaller than 3 m wide x 3 m deep x 3 m high for a pair.

C. Exhibit Furnishings: The exhibits of *Lorisinae* should be furnished with multi-directional tree-branch pathways ranging in size from 1.5 cm to 8 cm in diameter to accommodate these slow moving quadrupeds.

The exhibits of *Galaginae* should be provided with more vertically oriented tree-branch pathways to accommodate this group's vertical clinging and leaping locomotor patterns. Pathway dimensions should range from 0.75 cm to 8 cm in diameter. A minimum of one nest box per animal should be provided in each enclosure for *Galaginae*. Nest boxes should be no smaller than 12.7 cm wide x 12.7 cm deep x 12.7 cm high for the smallest species and 76.2 cm wide x 47.2 cm deep x 47.7 cm high for the largest species. Nest boxes should be located in the upper portion of the exhibit space as should the pathways to accommodate the family's arboreal habits. Nesting material for nesting spaces can be provided via a leaf-litter/branch exhibit substrate which can be changed frequently for hygienic purposes. However, an easily cleaned cement substrate is adequate for the family.

D. Environmental Requirements: Being nocturnal, this family should have access to a natural light cycle. For exhibition or husbandry purposes, the species should have access to a natural day length reversed light cycles utilizing red or blue light in combination with ultraviolet white light.

E. Diet: Characterized as primarily insectivorous, the family has been successfully maintained in captivity on a more omnivorous diet including: monkey chow, fresh fruits (apple, orange, banana, etc.), vegetables (cabbage, diced carrot and sweet potato, etc.) and insects (mealworms, crickets, etc.).

Lemuridae

A. Social Grouping: Groups of no less than two individuals should be the standard; dependent offspring should be housed with the dam. Larger groups should consist of one adult male and several adult females with offspring. These groups should reflect a fairly stable social condition.

Exception: Minimum of two adult females associated with a nearby solitary male for *Lepilemur*.

B. Exhibit Size: Minimum exhibit size for two animals of this family should be 1.52 m x 1.52 m x 1.83 m high (2.31 sq. m). This is for animals weighing approximately 1.8 kg-3.18 kg.

Exceptions: 1. Larger representatives of the family (*Varecia*, *L. fulvus*) should be housed in a minimum of 1.52 m x 1.83 m high (2.78 sq. m) enclosure.

2. Smaller representatives of the family (*Lepilemur* and

Hapalemur weighing 0.5-1 kg) should be housed in a minimum enclosure size of 1.22 m x 1.22 m x 1.52 m high (1.85 sq. m).

C. Exhibit Furnishings: The family is characterized as primarily arboreal and quadrupedal. Exhibit height should be adequate (at least 1.83 m) to exploit this characteristic. The upper one-third to one-half of the vertical cage space should be furnished with horizontal (and some vertical) tube/pole structures no larger than 5.08 cm in diameter to encourage locomotion and sunning behaviors. At least three sitting shelves (38.1 cm wide) should be provided for a group of 3+ individuals.

Exception: In addition to the above, vertical tube/pole structures (rather than horizontal) should be emphasized for *Lepilemur* to allow for the species' vertical clinging and leaping locomotor behaviors. The dimension of the poles should be no larger than 3.81 cm for adequate grasping.

D. Environmental Requirements: Reproductively photosensitive, diurnal species of this family should have adequate and consistent exposure to natural sunlight or suitable ultraviolet substitute which duplicates normal seasonal and daily light length. Nocturnal species should be provided in the same environment. For exhibition purposes an artificial reversed light cycle should be employed utilizing red/blue light in combination with ultraviolet white light.

Exception: In addition to the above, nesting species (*Varecia*) are to be provided with a minimum of one nest box (particularly during birth season and heated in the winter) per individual measuring 0.46 m x 0.46 m x 0.46 m high as a minimum dimension.

E. Diet: Diets of lemurs in the wild include primarily fruits supplemented by leaves (Hladik, 1979). Animals in a captive setting have been successfully acclimated to a diet of monkey chow in combination with fresh fruits (apple, orange, banana, grapes, etc.), vegetables (cabbage, kale, spinach, cooked carrot and sweet potato, etc.) and leaves (eugenia, hibiscus, mulberry, maple, etc.). While activity patterns tend to peak in early morning and late afternoon, feeding occurs throughout the day. Food should be offered twice per day in a fashion which prevents contamination with feces. Presentation of food should also allow for arboreal (*Varecia*) and terrestrial (*Lemur catta*) activity patterns. Amounts of food depend upon body weight and metabolic rate, but be adequate for maturing youngsters and lactating females.

Exception: In addition to the above, a specific dietary requirement for *Hapalemur* calls for the feeding of bamboo leaves.

Cheirogaleidae

A. Social Grouping: While this family is characterized as primarily solitary in nature, captive animals are successfully kept as pairs and family groups. The minimum social grouping should be a pair and one year's dependent offspring.

(**Clarification:** Individuals of the genus *Microcebus* should be housed as pairs, but during the period of time between parturition and when infants are 3-4 months of age, the breeding male should be removed and placed in a neighboring enclosure thus providing visual and olfactory access to the maternal group.)

B. *Exhibit Size*: The minimum acceptable cage dimension for this family is 1.22 m x 1.22 m x 1.22 m deep for a breeding pair. Family groups of a pair and one year's dependent offspring shall be given a minimum of two cages connected by a tunnel mechanism, or an exhibit which includes twice the minimum space.

C. *Exhibit Furnishings*: Species of this family exhibit frequent nesting behaviors and should therefore be provided with a minimum of one nest box (hollow log, etc.) measuring 10.16 cm x 10.16 cm x 10.16 cm per adult. A minimum of one-third of the enclosure should be furnished with small tree branches (no larger than 3.81 cm in diameter) or other such multidirectional structures thus providing adequate pathways for locomotion. These structures also help reduce stress.

D. *Environmental Requirements*: As nocturnal species, individuals in this family shall have access to natural light cycle. If exhibition is a criteria in keeping the species, the species shall have access to a natural day length reversed light cycles utilizing red or blue light in combination with ultraviolet white light.

E. *Diet*: In the wild, the diet for this family includes fruits supplemented by insects/small vertebrates for *Cheirogaleus*, insects supplemented by fruits for *Microcebus* and gums supplemented with insects for *Phaner*. Species in captivity are well acclimated to a diet of monkey chow, fresh fruits (apple, orange, grape, etc.) and insects/small vertebrates (mealworms, mouse pinkies, etc.). Being nocturnal, species in this family should be provided two feedings during their "day" activity period. The food should also be prepared so that it can be easily consumed (diced) and presented in a feces free environment, preferably in small pans. Amount of food should be carefully monitored so that adequate protein levels are maintained.

Indriidae

A. *Social Grouping*: The natural social group of a mated pair with one to two year's dependent offspring found in nature is appropriate for a captive situation. This species shall be kept in a minimum grouping of an adult pair and one year's dependent offspring.

(Clarification: Although known to live in large (10 individuals) polygamous groups in nature, *Propithecus* is successfully maintained in captivity in groups of a pair and one or two year's offspring. The minimum social group described above is thus applicable for *Propithecus*.)

B. *Exhibit Size*: Largest of the superfamily (10 kg), *Indriidae* require adequate space for movement and exercise. A minimum dimension of 5.0 m wide x 5.0 m deep x 5.0 m high is required for an adult pair and one year's dependent offspring.

C. *Exhibit Furnishings*: Being large-bodied vertical clingers and leapers, this family shall have adequate vertical resting posts. A minimum of three 20.32 cm diameter vertical pole structures or tree limbs shall be provided to the family group. In addition, a minimum of three 10.16 cm-15.24 cm poles or tree branches shall be intermeshed at a 45 degree angle among the larger poles. A minimum of two 0.91 m x 1.23 m feeding shelves shall be provided for feeding areas or resting areas.

D. *Environmental Requirements*: Diurnal and seasonally reproductive, the family shall be provided a natural daily light cycle or a suitable ultraviolet substitute.

Moderate temperature extremes (30 degrees F-90 degrees F) are well tolerated, in the former case with access to heat source (heat lamps, warm water beds, etc.). A minimum of one heating mechanism per animal is a minimum standard. As with others of the superfamily, extremely high temperatures (90 degrees F-105 degrees F) should be avoided and cooling mechanisms employed.

E. *Diet*: In the wild, the diet for this family includes fruits supplemented by leaves and flowers for *Propithecus* and leaves/buds supplemented by fruits for *Indri*. Successful captive diets incorporate monkey chow, fruits (orange, apple, banana, etc.), vegetables (cabbage, spinach, lettuce, corn, garbanzo beans, etc.), acorns, hard-boiled egg and leaves (mulberry, bamboo, maple, etc.). Primarily diurnal, species in this family should be fed during the day, and food be given twice daily in a fashion which prevents contamination with feces. Food should also be presented in a fashion that accommodates this family's arboreal patterns. Amounts of food should be adequate to meet growth needs of youngsters as well as nutritional needs of lactating mothers.

Exception: *Avahi*, being the only nocturnal species of this family, should be fed during the animal's "day" activity cycle.

Daubentonidae

A. *Social Grouping*: Although reported to be primarily solitary in nature, the largest social grouping being a mother and offspring, species in this family have been successfully kept in small groups (Petter, 1977). The minimum social group in captivity should be the breeding pair. It is recommended, however, that the male be removed after the birth of offspring to insure a less stressful environment for the mother and infant. The male should, however, have visual contact with the family unit (Petter, personal communication).

B. *Exhibit Size*: The size of the exhibit depends upon group size (solitary or pair/mother-infant) and species weight (2 kg). An adult pair of aye-aye should be kept in an exhibit no smaller than 4 m wide x 3 m deep x 3 m high primarily to accommodate their vertical leaping ability.

C. *Exhibit Furnishings*: The aye-aye is adept at both quadrupedal locomotion and vertical leaping (Petter, 1979). In order to accommodate these specific behaviors, a minimum of the upper one-third of the exhibit should be furnished with multidirectional tree branches ranging in diameter from 4-15 cm. To accommodate the nesting behaviors of this species, a minimum of one nest box per adult should be provided measuring no smaller than 76.2 cm wide x 47.7 cm deep x 47.7 cm high. Nesting material in the form of leaf litter and twigs should compose the exhibit floor for use by the animals. The nest box should be positioned well off the floor, preferably high on the exhibit wall or in an upper story fork of a tree. Pathways to the nest box are essential.

D. *Environmental Requirements*: As a nocturnal species, individuals should have access to natural light cycle. If exhibition is a criteria, the species should have access to a natural day length reversed light cycles utilizing red or blue light in combination with ultraviolet white light.

E. *Diet*: The diet in nature for this primate is reported to be primarily fruits supplemented by insect larvae, the latter in substantial quantity (Hladik, 1979). A successful captive diet has been developed which includes coconut meat, a baby

cereal gruel, mealworms, apple and orange (Petter, personal communication). Two feedings a day should be offered during this nocturnal animal's "day" activity cycle. Foods should be fed free of feces contamination, preferably in pans which can be cleaned.

II. MARMOSETS, Tamarins and Callimico: These two families of South American primates, the *Callitrichidae* (marmosets and tamarins) and *Callimiconidae* (callimico), differ from the remainder of the South American primates in size, social groupings and diet, and will be considered separately. The *Callitrichidae* are divided into 4 genera containing 17 species, while the *Callimiconidae* is a monotypic family. All species are arboreal and diurnal. Diets vary among species, but are primarily fruits, gums and insects. All species within this group are monogamous, males frequently provide high amounts of parental care, and juveniles require experience in infant rearing in order to become competent parents as adults.

A. Social Grouping: The social group should be a family group with an adult pair, a set of juvenile offspring and a set of infant offspring. The family may extend to three or more litters depending on species and behavior of the family unit. Juvenile groups, nonbreeding pairs, same sex groups, etc. may be displayed also. Different groups of the same species should be separated by a visual barrier. Harmless birds, rodents, reptiles, amphibians, fish may be exhibited with most Callitrichids.

B. Exhibit Size: Exhibit size should be based on 1) the size of the group, and 2) the size of the species. Adults in this group range from 100 g-1000 g in weight. For the smaller species, 100 g-500 g, minimum exhibit size for a group should be 3' x 3' x 6'. Species within the 500 g-1000 g range would require a minimum exhibit size of 4' x 8' x 8'. The upper 24" of the exhibit should permit animals to rest out of public view.

C. Exhibit Furnishings: There should be a minimum of one nest box which can accommodate all group members and which has an opening large enough to allow adult with young on its back to pass unobstructed. Furnishings should include both rigid and flexible vertical and horizontal supports of different diameters placed at different angles. Particular attention should be given to the upper two-thirds of the exhibit to enable the animals to rest and locomote above public eye level. Nest boxes and elevated feeding and water stations should be located at or above average public eye level. There should be a minimum 6' distance from the public viewing barrier to the nest box and feeding sites.

The exhibit substrate can be of bark, mulch, shavings, natural diet, etc. which can be removed for adequate hygiene or by its nature will be self limiting in buildup of noxious chemicals or by-products (i.e. natural outdoor soil and/or turf system). A solid cleanable substrate (concrete, fiberglass, etc.) is adequate.

D. Temperature: The minimum temperature for species in this group is 70 degrees F. While air conditioning to control high temperatures is not required, it is essential that protection from overheating via shade and/or air circulation equipment be provided. Temperatures in outdoor facilities cooler than 70 degrees F can be acceptable if a nest box or other area of 70 degrees minimum is available to the animals (heat lamp, spot radiant heat, etc.).

E. *Pest Control*: It is especially important that cockroach and mouse control be practiced on a regular basis. Callithricids are especially susceptible to several parasites which have cockroaches as an intermediate host. Many Callithricids regularly eat cockroaches.

F. *Stress Management*: Callithricid species are among the easier to stress primates. Stress of any kind should be avoided. Excessive handling, disruptive cleaning procedures, removal of more than 50% of familiar exhibit dressings, public noise and motions should be carefully monitored.

G. *Food*: A commercially available balanced primate diet for South American species should form the basis of the diet (50 minimum by volume of diet offered). Unlike other primates, the marmosets and tamarins cannot synthesize Vitamin D. If the canned diet prepared specifically for marmosets is not used, Vitamin D3 supplements should be given. The remainder of the diet should be a mixture of fresh fruits and vegetables, the composition of which should be frequently changed to stimulate interest and activity.

In addition, high protein items are required by most species. Mouse pups, crickets, mealworms, cooked or raw meat, milk, cheese, yogurt, etc. can be added. A multiple vitamin preparation can be added to the diet as prescribed by the attending veterinarian.

III. CEBIDAE (other South American monkeys): Within the family *Cebidae*, or true monkeys, many of the genera differ dramatically in their dietary and husbandry needs. For the purposes of this discussion, true monkeys or *Cebidae* will include howler monkeys, *Alouatta*; owl monkeys, *Aotus*; spider monkeys, *Ateles*; woolly spider monkeys, *Brachyteles*, uakaris, *Cacajao*; titi monkeys, *Callicebus*; capuchins, *Cebus*; saki monkeys, *Pithecia* and *Chiropotes*; woolly monkeys, *Lagothrix*; and squirrel monkeys, *Saimiri*.

A. *Social Grouping*: Sakis, titis, and owl monkeys are monogamous and should only be kept in groups that consist of a single pair of adults and their offspring of one to three prior births. The presence of an additional unrelated female will often result in its premature death from stress or injury by the dominant member of that sex; the likelihood that a subordinate female will breed in the presence of a dominant individual is slim. The remaining New World primates are more social in nature and will often reproduce successfully when kept in larger groups, space permitting. These species are polygamous in nature; *Saimiri* may live in groups as large as 200 individuals (Izawa, 1976); troops of *Cebus*, *Lagothrix*, and *Ateles* may reach 50-70 (Nishimura and Izawa, 1975; Muckenhirn, et al., 1975; Wolfheim, 1983).

In the wild, some groups of these species appear to include more than one mature male, but managers are cautioned about trying to duplicate this situation. In general, it can be stated that single male/multiple female groups should be the norm, and additional males added with thoughtfulness and observation of the resulting group dynamics. Woolly monkeys and uakari groups should never include more than one male. Capuchin, squirrel and spider monkeys can be maintained in multi-male, polygamous groups if adequate space is available should a subordinate male need sanctuary. Howler monkey breeding groups composed of only one adult male and one adult female and their offspring are recommended, since female howler monkeys may exhibit antisocial

behavior among themselves. Only in unusual circumstances should pregnant females or females with neonates be separated from other adults in the group. Young usually will be tolerated by both sexes of adults.

B. Exhibit Size: In addressing spatial requirements, sakis, titis, and squirrel and owl monkeys are considered as small (.55-3 kg; 24-47 cm hbl); capuchins and uakaris as medium (1.15-5.1 kg; 32-56 cm hbl); and howler, woolly, and spider monkeys as large (5-10+ kg; 37-72 cm hbl) (Napier and Napier, 1967; Chirelli, 1972). Sakis, because of their unusually active nature, should be treated as "medium" when considering their spatial needs. Pairs of small-sized primates (titis, owl and squirrel monkeys) should have at least 2 x 2 x 2 meters of space available to them, increasing to 2.5 meters cubed for a group of up to six, and more if needed for larger groups of squirrel monkeys. Capuchins, uakaris and sakis are medium-sized and/or active species. Exhibits for pairs of these primates and offspring should measure at least 2.5 meters wide x 2 meters deep x 2 meters. Trios of one male and two females (if appropriate), and their offspring totalling up to 5 animals should be offered 4 x 2.5 x 2.5 meters. As the number of offspring and adults increase, the cage size should increase accordingly.

Zoos often exhibit the large howler, woolly and spider monkeys on islands surrounded by water, a situation which usually meets their spatial requirements. A cage for a pair or trio of adults should measure at least 3 x 3 x 3 meters, increasing to at least 3.5 meters wide x 3.5 meters high as troop size increases. Adequate shift facilities should be provided to allow for cage cleaning, separation of animals, etc.

C. Exhibit Furnishings: All of the New World primates except capuchins are totally arboreal in habit, and in captivity spend most of their time sleeping or moving about on any "furniture" present in their quarters. Surfaces should be rough or otherwise textured so that they will not become slick from urine, water, or environmental moisture. Perches should be available at all times to permit the animals to move laterally about the exhibit, and from the floor to the ceiling of their cage or island. Actual construction of this "furniture" may vary from manufactured products like ropes, plastic (PVC) pipe and wooden rods to wooden branches and limbs, and vines that may easily be replaced as needed. If ropes are used, the ends should be sealed against fraying, and heavy enough to remain taut when the animals are actively using them. Ledges located at various heights should also be present for resting and sleeping. Visual barriers are desirable as a means to temporarily escape other conspecifics or the public.

D. Diet: Foods consumed by New World primates in the wild include all manner of plants and animals, and many genera may correctly be classified as frugivores, herbivores, omnivores, or combinations thereof. Most of these species may be acclimated easily to a captive diet containing a wide variety of commercial diets (primate chows and monkey biscuits) and "natural" appearing items such as fruits (grapes, raisins, orange, apple, etc.), nuts, vegetables (lettuce, cabbage, spinach, corn, carrot, etc.), mealworms, crickets, and mouse pups.

South American primates, with the exception of *Aotus*, are diurnal and will feed throughout the day. Foods should be presented in such a fashion as to prevent contamination by birds or rodents, either by its location or by suspension; arboreal primates should be fed off the ground to accommodate their natural behaviors as well as to discourage fecal contamination of their foodstuffs. The use of bowls, pans, or hoppers for food presentation is preferred

to scattering diets on the enclosure floor. Further, groups of primates should be fed in several areas to minimize competition and stress. Food should be offered twice daily and when possible, should vary in content. Owl monkeys should also be fed at this interval, the actual time of feeding depending on the light cycle.

The larger howler monkeys are perhaps the most challenging members of the *Cebidae*, a situation which in the past could be traced to the inadequate diet provided while the animals were held captive in their country of origin. These herbivores feed primarily on young leaf shoots, flowers, and fruits, a diet that can be basically described as being high in bulk but low in energy. Large amounts of leafy vegetables and browse should be offered throughout the day, and particularly during the critical phase of acclimation. Foods with high caloric values may, at least initially, be difficult for them to utilize, and cause digestive problems, diarrhea, or death.

IV. COLOBINAE: The *Colobinae* are leaf-eating monkeys and are found in Africa and Asia. Unlike other Old World monkeys, the Colobines lack cheek pouches for food storage and have large, complex stomachs that make it possible for them to digest large quantities of leaves. This discussion of leaf-eating monkeys pertains to the thirty-seven species of the following five genera (*Colobus*, *Presbytis*, *Pygathrix*, *Rhinopithecus*, and *Nasalis*). All are primarily arboreal, but they are capable of quadrupedal locomotion on the ground. Weights range from 5 kg in some of the smaller species to 22.5 kg in the larger species, although all have similar, rather slender bodies (Nowak, *et al.*, 1983).

There has been a great deal of difficulty in keeping langurs in captivity. This is, in large part, due to their diet in nature which consists largely of leaves and the problems related to converting them to a captive diet that rarely—if ever—provides a diet of the texture and taste that these animals will accept. In spite of these problems, there are captive breeding records and surprisingly good longevities for a number of species. The varied records with Asian leaf-eating monkeys in captivity turns this subfamily into somewhat of an enigma for zoo professionals.

A. Social Grouping: The leaf-eating monkeys are all highly social species and usually live in a relaxed atmosphere. It is recommended that they be kept in groups in enclosures that provide adequate space for normal behavior and activity. If more than one mature male is in a group, the exhibit should be large enough to allow the males to move out of each other's sight (Hollihn, 1972).

B. Exhibit Size: In nature, leaf-eating monkeys spend much of the day actively searching for food. They are capable of extremely long leaps, some of over 30 feet in length (Doherty, pers. obs.). Captive facilities should be spacious enough to allow these animals to be very active. Leaf-eating monkeys in captivity have seemed somewhat prone to bloat. Providing the animals with space for an active life that might aid in digestion alleviates this problem.

The following "rule of thumb" is suggested for determining minimum exhibit size based on the experience of the author with three species kept and successfully bred in the New York Zoological Park. The minimum exhibit size for keeping leaf-eating monkeys should be no less than three times the total maximum length (tip of nose to tip of tail) of the species exhibited (see Mac-

Donald, 1985 for information). As an example, proboscis monkeys, *Nasalis larvatus*, would require an exhibit approximately 15 feet wide by 15 feet deep by 15 feet high. This proposed rule of thumb relates only to those species that have been kept successfully and is adequate for an adult breeding male, two adult breeding females, and two juveniles of either sex. Shifting facilities are also required. Two enclosures are required per exhibit with each having a length and width equal to 1.5 times the total maximum length of the species. If additional shift areas are available, then these figures may be reduced to one time the total maximum length of the species.

C. Exhibit Furnishings: Because leaf-eating monkeys, and langurs in particular, are shy and arboreal in habits, exhibit height and furnishings are of great importance. There should be adequate shelf space or comfortable perches, high in the exhibit, that will allow all animals in the group to rest at the same time. Perches should be of such a diameter as to allow the monkeys to grasp them safely. Some perches should extend to the exhibit floor.

D. Exhibit Environmental Requirements: Temperature—A relatively constant temperature should be maintained with 74 to 78 degrees F being nearly ideal for all species, with the possible exception being the golden snub-nosed monkey, *Pygathrix roxellana*, which may tolerate lower temperatures. Animals exhibited in outdoor enclosures can usually adapt to a wider range of temperatures, with 70 to 85 degrees F being the possible extremes (Keeling, 1974). Animals held in outdoor enclosures should have access to indoor enclosures when temperatures are at the lower part of the range and access to indoor enclosures or shade when temperatures are at the high part of the range.

E. Food: Meeting the nutritional needs of leaf-eating monkeys is one of the greatest obstacles to keeping them in captivity (Hill, 1964). The most stressful period to animal and keeper (Doherty, pers. obs.) is immediately after animals have come into captivity. There is no chance of supplying the native vegetation (primarily leaves) so substitutes that are acceptable to the animals must be located. Importations of recently caught animals should be timed to coincide with the availability of fresh browse. Leaves of the following were accepted with some regularity: mulberry, willow, grape, maple, alder, and beech. Not all were offered at the same time, but leaves that would appear to be relished by the monkeys for one or more days might then become an untouched item with another plant species taking its place for a time.

It is strongly recommended that zoos importing wild-caught, leaf-eating monkeys offer any green vegetables and non-toxic leaves available in order to keep the animals eating during the acclimatization period. Accurate counts of all items offered, along with a record of what was actually eaten, should be kept. The daily ration of food and browse should be offered in four separate feedings that can be reduced to three, and finally to two, as the animals improve their eating habits. Recommended browse species include birch, willow, blackberry, mulberry, rose, sweet potato vines, bamboo, hibiscus blossoms, *Vitis vinifera*, *Morus alba*, *Ancuba japonica* (Hill, 1964). In cold climates, browse may be cut and frozen for use during the winter. Additional green vegetables are green beans, Chinese cabbage, kale, spinach. Other food items include banana, plantain, hard-boiled eggs, bread, cooked rice, monkey biscuits, carrot sweet potato, mealworm larvae.

V. CERCOPITHECINAE: (baboons, drills, mandrills, macaques, guenons, mangabeys, talapoin, patas monkeys, swamp monkeys). The *Cercopithecinae*, or Old World monkeys, range throughout Africa and Asia. This subfamily encompasses 8 genera and approximately 50 species (Nowak and Paradiso, 1983). With the exception of the monotypic genus *Miopithecus*, the species included in this discussion are medium to large primates, and range from primarily terrestrial to almost completely arboreal (*M. silenus*). All species in this subfamily are diurnal. Weights range from 1 kg (*M. talapoin*) to 50 kg (*Papio mandrillus*) with the majority of the species being powerfully built, active individuals.

A. *Social Grouping*: The Cercopithecids live in social groups that include one or more adult male(s), several adult females, and associated young of varying ages. A captive social group should contain one male, several females and young. The exception to this is *M. talapoin* which has been successfully kept in multi-male, multi-female groups.

B. *Exhibit Size*: For an indoor facility, the minimum exhibit height should be no less than 8 feet, and the length and width dimensions no less than five times the maximum head-and-body length of an adult male of the species in question (see MacDonald, 1985 for information). As an example, lion-tailed macaques, *Macaca silenus*, would require an exhibit approximately 10 feet wide by 10 feet deep by 8 feet high. This proposed rule of thumb is adequate for an adult breeding male, two adult breeding females, and two juveniles of either sex. A minimum of two shifting enclosures is required per exhibit with each having a length and width equal to 2 times the total maximum head-and-body of an adult male of the species.

C. *Exhibit Furnishings*: The species in this discussion tend to be active, strong, and persistently manipulative animals. They will attempt to disassemble or chew apart any exhibit they are in, so great care must be given to the structural integrity as well as the materials used. Cages should be furnished with horizontal pathways, shelves, and comfortable perches above floor level. The use of hay on the floor will allow natural foraging behavior and occupational therapy when seeds, grains, raisins, etc. are scattered through it. Non-toxic, natural tree branches provide a replaceable material which keeps animals occupied.

E. *Food*: The nutritional needs of Cercopithecines are well studied and documented, and there are many commercially prepared primate diets available that will serve as a basis for these needs. The addition of fruits, vegetables, nuts, seeds, grains, insects, etc., as well as fresh browse will greatly augment and enhance the commercial "monkey biscuit." Cercopithecines take almost anything which is digestible and not actually poisonous (MacDonald, 1985). Crandall (1964) provides an excellent presentation of non-commercial diet consideration for these species.

At Woodland Park Zoo, Monkey Chow (Ralston Purina Co.) is put in hoppers in the morning and afternoon, and the monkeys help themselves to it as they desire. A variety of greens—romaine, lettuce, cabbage, kale, etc.—is fed in the morning and other assorted vegetables and fruits are fed in the afternoon. Greens, fruits, and vegetables are presented in baskets above floor level to lessen contamination.

VI. HYLOBATIDEA (lesser apes): There are nine species in the single genus *Hylobates*. The eight gibbon species range from 4-8 kg in weight; the siamang is slightly larger, ranging from 8-13 kg.

A. *Exhibit Size*: All species are highly arboreal brachiators and require sufficient space to allow for 2-3 consecutive arm swings with the animal's body swinging freely above the ground. Animals kept in small cages which restrict this activity develop generalized muscular weakness within a short time (Keeling & McClure, 1972). The minimum cage size for a single gibbon would be 7' x 7' x 7' if appropriate cage furniture is provided; that for a single siamang would be 7' x 9' x 7'. Animals can be housed in smaller cages if allowed access to an exercise area daily (Keeling & McClure, 1972).

B. *Exhibit Furnishings*: A minimum of 3-4 branches or poles between 2" and 5" in diameter should be spaced approximately 2' apart throughout the cage at heights that are greater than the body length of the animal when arms and legs are fully extended. A bench, solid or mesh, should be provided above ground level. The bench should be of a size to allow the entire social unit to rest comfortably together.

C. *Food and Water*: In the wild, Hylobatids are primarily frugivores, but captive animals do well on a diet of monkey chow, canned primate diet, fruits and vegetables (including green, leafy vegetables), and whole grain bread.

D. *Social Grouping*: All the Hylobatids are monogamous and strongly territorial. If breeding is desired, a single male and female should be housed together. There is no need to separate the male and female at the time of birth or afterwards. Up to 3 offspring can remain within the group. If no animal of the opposite sex is present, like-sexed animals can be housed together.

VII. PONGIDAE (great apes): There are four species of pongids in three genera, *Pongo* (orangutans), *Pan* (chimpanzees and pygmy chimpanzees), and *Gorilla* (gorillas). Adult male weights range from 39 kg (pygmy chimpanzee) to 250 kg (gorilla); adult female weights, from 31 kg (pygmy chimpanzee) to 140 kg (gorilla) (Nowak and Paradiso, 1983; MacDonald, 1984). All species are diurnal.

A. *Social Grouping*:

1. *Pongo*—Although wild orangutans are considered solitary, the average number seen together in the wild is 1.8 (Rodman, 1973) and they can be highly social in a captive situation. A minimum of two animals should be housed together (a mother with nursing offspring is considered as a single animal). In general, the male can remain with the female during and following the birth of an infant. Parents tolerate juvenile offspring until the offspring approach sexual maturity. Same-sexed individuals sometimes can be housed together in the absence of a member of the opposite sex.

2. *Pan*—In the wild, chimpanzee groups are fluid, with subgroups forming and membership in the group changing frequently. The average subgroup size is from 2-4 individuals and may consist of all females, all males, or of both sexes. In captivity, a minimum of two animals should be housed together. When possible, a larger group is recommended.

3. *Gorilla*—Wild gorillas live in social groups, with group size ranging from 5 to 28 individuals (Schaller, 1963). A typical group consists of a silver-back male, several females and their young. In captivity, a minimum group should consist of at least two animals. The preferred group would include an adult male, one or more adult females, and associated young.

B. *Exhibit Size*: The minimum cage size for two pygmy chimpanzees, or a single chimpanzee, orangutan or gorilla is 14' x 14' x 10'. A group of 2 adults would require double this space in the horizontal dimension. If provision is not made for division of this space into separate areas, then two or more shift cages of a minimum of 6' x 10' x 8' should also be available.

C. *Exhibit Furnishings*: Although chimpanzees and gorillas are mainly terrestrial, they do climb and use trees as nesting sites (Schaller, 1963), so the vertical aspect of an exhibit is important to them, as well as to the arboreal orangutan. Cage furnishings should include three dimensional structures for climbing and should incorporate flat platforms for nest building. These platforms should be at least 1 m apart and placed at varying heights. Nesting material, such as hay, straw, or wood wool, should be provided daily. Ropes may be incorporated into the cage structure, but should be securely anchored at both ends, and taut enough to prevent animals from wrapping the rope around themselves. Additional moveable temporary furnishings, such as tires, large empty plastic drums, or "boomer" balls provide apes with opportunities to manipulate objects.

The great apes have extensive abilities to manipulate cage parts and furnishings. Bolts and screws should be on the outside of cages whenever possible, and when they are inside cages, should be flush mounted. Light sources should be recessed, with covers that prevent primate access.

D. Food:

1. *Pongo*—Orangutans are omnivorous and do well on a diet of monkey chow, canned primate diet, green and other vegetables, fruits, eggs, yogurt, milk, and nuts.

2. *Pan*—Chimpanzees are omnivorous and their diet should include commercially prepared canned diets and chows, fresh fruits, vegetables and leafy greens, and occasionally eggs and live insects.

3. *Gorilla*—The western lowland gorilla incorporates a high proportion of fruit into its diet (Tutin and Fernandez, 1985). Monkey chows, one or two green leafy vegetables, green beans, carrots, sweet potato, apple, banana, oranges, and grapes all are eaten readily. Yogurt and some type of fruit juices are effective means of medicating animals. If at all available, browse should be offered as frequently as possible. The availability of browse can do much to offset the syndrome of regurgitation and reingestion frequently seen in captive gorillas (Gould and Bres, 1986).

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MINIMUM SPACE AND ENVIRONMENTAL ENRICHMENT REQUIREMENTS FOR NON-HUMAN PRIMATES

The minimum space and environmental enrichments that must be provided to each grouping of non-human primates housed in a primary enclosure must be appropriate for the species housed in accordance with the following chart:

Non-human Primate Group	Species/Type	Minimum No. Primates Per Enclosure	Minimum Primary Enclosure Size (Length, Width, Height)	Shelter Dens/Nest Boxes	Enclosure Furnishings or Equipment
Prosimians	Tarsiers	Pair	1m L x 1m W x 2m H (3.28ft) x (3.28ft) x (6.56ft)	12.7cm L x 12.7 cm W x 12.7cm H (5.0in) x (5.0in) x (5.0in) for each adult in upper half of exhibit.	1, 2, 3
	Lons & Galago: Smaller species	Pair or family group	1.5cm L x 1.5cm W x 1.5cm H (4.92 ft) x (4.92ft) x (4.92ft)	12.7cm L x 12.7cm W x 12.7cm H (5in) x (5in) x (5in) for each adult in upper half of exhibit.	1, 3
	Larger species		3m L x 3m W x 3m H (9.84ft) x (9.84ft) x (9.84ft)	76.2cm L x 47.2cm W x 47.7cm H (30in) x (16.6in) x (18.8in)	
	Lemurs	Pair	1.52m L x 1.52m W x 1.83m H (4.98ft) x (4.98ft) x (6.0ft)	0.46m L x 0.46m W x 0.46m H (1.5ft) x (1.5ft) x (1.5ft) for each adult in upper half of exhibit.	1, 2
	Mouse Lemurs	Pair	1.22m L x 1.22m W x 1.22m H (4.0ft) x (4.0ft) x (4.0ft)	10.16cm L x 10.16cm W x 10.16cm H (4.0in) x (4.0in) x (4.0in) for each adult in upper half of exhibit.	1
	Indris	Pair or family group	5m L x 5m W x 5m H (16.4ft) x (16.4ft) x (16.4ft)	One shelter for all	1, 2, 4
	Avahis				
	Sifakis				
	Aye-Ayes	Pair	4m L x 3m W x 3m H (13.12ft) x (9.8ft) x (9.8ft)	76.2cm L x 47.7cm W x 47.7cm H (2.5ft) x (1.5ft) x (1.5ft) for each adult in upper half of exhibit.	4, 7

MINIMUM SPACE AND ENVIRONMENTAL ENRICHMENT REQUIREMENTS FOR NON-HUMAN PRIMATES (cont'd)

Non-human Primate Group	Species/Type	Minimum No. Primates Per Enclosure	Minimum Primary Enclosure Site (Length, Width, Height)	Shelter Dens/Nest Boxes	Enclosure Furnishings or Equipment
Marmosets	Smaller < 500g	Pair	0.91m L x 0.91m W x 1.83m H (3ft) x (3ft) x (6ft)	One shelter for all <i>Note:</i> Minimum temperature of 70°F	1, 2, 5
Tamarins	Larger > 500g		1.22m L x 2.44m W x 2.44m H (4ft) x (8ft) x (8ft)		
Callimico			2m L x 2m W x 2m H (6.56ft) x (6.56ft) x (6.56ft)	One shelter for all	1, 2, 5, 6
Other New World Monkeys	Titis, Owl, & Squirrel	Pair		<i>Note:</i> Sakis, Titis, & Owls are monogamous.	
		Up to 6	2.5m L x 2.5m W x 2.5m H (8.2ft) x (8.2ft) x (8.2ft)		
	Capuchin	Pair	2.5m L x 2m W x 2m H (8.2ft) x (8.2ft) x (8.2ft)		
	Uakaris				
	Sakis	Up to 5	4m L x 2.5m W x 2.5m H (13.12ft) x (8.2ft) x (8.2ft)		
	Howler	Pair	3m L x 3m W x 3m H (9.84ft) x (9.84ft) x (9.84ft)		
	Woolly				
	Spider	Over 2	3.5m L x 3.5m W x 3.5m H (11.5ft) x (11.5ft) x (11.5ft)		
Langurs, Colobines	Proboscis, Langur, Colobus	Pair or family group	Width, length, and height are to be at least 3 times the length from tip of nose to tip of tail for the largest animal.	Two boxes, each one at least 1½ times the length from tip of nose to tip of tail. <i>Note:</i> Temperature range should be 70-85°F	1, 2, 6
Other Old World Monkeys (Cercopithecids)	Baboons, Drills, Mandrills, Macaques, Guenons, Mangabeys, Talapoin, Patas & Swamp Monkeys	Pair or family group	Length and width each five times the head and body length of the largest adult. Height = 8ft. minimum (2.44m).	Sufficient shelter for all	1, 2, 3, 7

MINIMUM SPACE AND ENVIRONMENTAL ENRICHMENT REQUIREMENTS FOR NON-HUMAN PRIMATES (cont'd)

Non-human Primate Group	Species/Type	Minimum No. Primates Per Enclosure	Minimum Primary Enclosure Site (Length, Width, Height)	Shelter Dens/Nest Boxes	Enclosure Furnishings or Equipment
Lesser Apes	Gibbons	One	2.14m L x 2.14m W x 2.14m H (7ft) x (7ft) x (7ft)	One shelter for all	1, 2, 8
	Siamangs	One	2.14m L x 2.75m W x 2.14m H (7ft) x (9ft) x (7ft)	Note: These species are arboreal brachiators, are monogamous, and are strongly territorial.	
Greater Apes	Pygmy Chimpanzees	Pair	4.27m L x 4.27m W x 3.05m H (14ft) x (14ft) x (10ft)	Shelter for all by individual or group	7, 9, 10, 11
	Chimpanzee	Pair	8.54m L x 8.54m W x 3.05m H (28ft) x (28ft) x (10ft)		
	Gorilla				
	Orangutan	Pair	8.54m L x 8.54m W x 3.05m H (28ft) x (28ft) x (10ft) Space should be divided into separate areas or shift cages be available.		

1. Vertical and horizontal branches/poles of suitable size for the species.
2. Elevated perches/resting shelves of sufficient size to hold all primates.
3. Elevated pathways of tree branches/poles/or other material suitable for the species.
4. Multidirectional pathways of branches/poles/or other material of suitable size for the species.
5. Elevated feed and water stations.
6. Visual barriers.
7. Nontoxic hay/straw/leaves/branches/browse for foraging or nesting.
8. Three to four horizontal branches/poles about 2 feet apart throughout exhibit at heights that are greater than the body length of the animal when arms and legs are fully extended.
9. Climbing structures and elevated platforms at least 1 meter (3.28ft) apart and at varying heights.
10. Ropes anchored at each end which are taut enough to prevent being wrapped around an arm or leg.
11. Objects to manipulate such as tires, plastic drums, or "boomer" balls.

REGULATORY ENFORCEMENT AND ANIMAL CARE

U.S. Department of Agriculture
Animal and Plant Health Inspection Service
6505 Belcrest Road
Federal Building
Hyattsville, Maryland 20782

To report a violation of the Animal Welfare Act, the Twenty-Eight Hour Law, or the Horse Protection Act, citizens should phone their local Animal Care Sector office.

- Joan M. Arnoldi, Deputy Administrator (301) 436-8323
- Regulatory Enforcement: Arthur J. Wilson,
Assistant Deputy Administrator (301) 436-6491
- Animal Care: Richard L. Crawford, Staff Director..... (301) 436-7833

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POACHING TELEPHONE HOTLINE NUMBERS

State	Title of Program	Telephone Number
Alabama	Game Watch	1-800-272-4263
Alaska	Alaska Fish & Wildlife Safeguard	1-800-478-3377
Arkansas	[no name for program]	1-800-482-9262
Arizona	Operation Game Thief	1-800-352-0700
California	Cal Tip	1-800-952-5400
Colorado	Operation Game Thief	1-800-332-4155
		or (303) 295-0164
Florida	Wildlife Alert	NW Dist. = 1-800-342-1676
		NE Dist. = 1-800-342-8105
		Central Dist. = 1-800-342-9620
		South Dist. = 1-800-282-8002
		Everglades Dist. = 1-800-432-2046
Georgia	Turn in Poachers (TIP)	1-800-241-4113
Hawaii	Conservation Hot Line	1-808-548-5918
Idaho	Citizens Against Poaching	1-800-632-5999
Illinois	Turn in Poachers (TIP)	1-800-252-0163
Indiana	Turn in Poachers (TIP)	1-800-847-4367
		or 1-800-TIP-IDNR
Iowa	Turn in Poachers (TIP)	1-800-532-2020
Kansas	Operation Game Thief	1-800-228-4263
Kentucky	Report a Poacher	1-800-252-5378
Louisiana	Help Stop Poaching	1-800-442-2511
Michigan	Turn in Poachers (TIP)	1-800-292-7800
Minnesota	Turn in Poachers (TIP)	1-800-652-9093
Mississippi	Be Smart	1-800-237-6278
Missouri	Turn in Poachers (TIP)	1-800-392-1111
Montana	Turn in Poachers (TIP)	1-800-847-6668
Nebraska	Operation Game Thief	1-800-742-7627
Nevada	Operation Game Thief	1-800-992-3030
New Mexico	Operation Game Thief	1-800-432-4263
North Carolina	[no name for program]	1-800-662-7137
North Dakota	Report all Poachers (RAP)	1-800-472-2121
Oklahoma	Operation Game Thief	1-800-522-8039
Oregon	Turn in Poachers (TIP)	1-800-452-7888
South Carolina	Operation Game Thief	1-800-922-5431
South Dakota	Turn in Poachers (TIP)	1-800-592-5522

State	Title of Program	Telephone Number
Tennessee	Stop Poaching	1-800-255-8972
Texas	Operation Game Thief	1-800-792-4263
Utah	Game Thief	1-800-662-3337
Washington	Help Stop Poaching	1-800-562-5626
Wisconsin	Turn in Poachers (TIP)	1-800-847-9367 or 1-800-TIP-WDNR
Wyoming	Stop Poaching	1-800-442-4331

**LAWS PERMITTING CITIZEN ENTRY TO RELIEVE
A CONFINED, NEGLECTED ANIMAL**

Twelve states and Guam have laws authorizing a citizen to enter premises where an animal has been confined without food and water. The California law, which is typical, is quoted in full below, and a chart summarizing the major points in states having such a law follows:

California: Penal Section 597e. *Domestic animals; impounding without sufficient food or water; supply by third party; collection of cost.* Any person who impounds, or causes to be impounded in any pound, any domestic animal, must supply the same during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof, is guilty of a misdemeanor. In case any domestic animal is at any time impounded, as aforesaid, and continues to be without necessary food and water for more than twelve consecutive hours, it is lawful for any person, from time to time, as may be deemed necessary, to enter into and upon any pound in which any such domestic animal is confined, and supply it with necessary food and water so long as it remains so confined. Such person is not liable to any action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such animal, and such animal is not exempt from levy and sale upon execution issued upon a judgment therefor.

LAWS PERMITTING CITIZEN ENTRY TO RELIEVE A CONFINED, NEGLECTED ANIMAL

<i>State</i>	<i>Section Number</i>	<i>Time Without Food and Water</i>	<i>Penalty for Failure to Provide Food and Water</i>
Arkansas	41-2954	12 hours	
California	Penal 597e	12 hours	Misdemeanor
Idaho	18-2108	12 hours	Misdemeanor
Iowa	188.49		
Nevada	574.120	12 hours	Misdemeanor
New Jersey	4:22-51	12 hours	
New York	Agric. & Markets 356	12 hours	Misdemeanor, punishable by imprisonment up to 1 year and/or up to \$500
Ohio	1717-13	15 hours	
South Dakota	40-17	12 hours	
Tennessee	39-407	12 hours	
Texas	Civil Code 186	12 hours	
Washington	16.52.100	24 hours	Misdemeanor
Guam	14-597a	12 hours	Misdemeanor, punishable by a fine of up to \$25

PROCEDURE FOR CITIZEN REQUEST OF CRUELTY INVESTIGATION IN THE STATE OF MINNESOTA

343.22. *Animals; Estrays; Disposal; Investigation of Cruelty Complaints.*

Subdivision 1. Any person who has reason to believe that a violation of section 346.21 has taken place or is taking place may apply to any court having jurisdiction over actions alleging violation of such section for a warrant and for investigation. The court shall examine under oath the person so applying and any witnesses he may produce and must take his affidavit or their affidavits in writing, and cause same to be subscribed by the party or parties making same. The affidavit or affidavits must set forth the facts tending to establish the grounds for believing a violation of section 346.21 has occurred or is occurring, or probable cause to believing that they exist. If the court is thereupon satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, it shall issue a search warrant and order for investigation, signed by the judge of such court with his name of office, to a peace officer in such county, commanding him to forthwith proceed to the location of the alleged violation taking with him a doctor of veterinary medicine and commanding such peace officer to search the place designated in such warrant and together with such veterinary doctor conduct an investigation of the facts surrounding the alleged violation, retaining in his custody subject to the order of the court such property or things which are specified in such warrant, including any animal if such warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application, and the grounds for its issuance. Service shall be made in accordance with the provisions of sections 626.13, 626.14 and 626.16. The warrant must be executed and returned to the court which issued such warrant within ten days after its date; after the expiration of such time the warrant, unless executed, is void. The officer executing such warrant must forthwith return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer at the foot of the inventory. The warrant and order for investigation issued pursuant to this section and section 346.216 shall have the same force and effect as a warrant issued pursuant to chapter 626.

OKLAHOMA DOG AND CAT STERILIZATION ACT

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 499 of Title 4, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 11 of this act shall be known and may be cited as the "Dog and Cat Sterilization Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 499.1 of Title 4, unless there is created a duplication in numbering, reads as follows:

As used in the Dog and Cat Sterilization Act:

1. "Neuter" means to render a male dog or cat unable to reproduce;
2. "New owner" or "owner" means a person legally competent to enter into a contract acquiring a dog or cat from a releasing agency;
3. "Releasing agency" means any pound, shelter, or humane society organization, whether public or private;
4. "Spay" means to remove the ovaries of a female dog or cat in order to render said animal unable to reproduce; and
5. "Sterilization" means to spay or neuter a dog or cat.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 499.2 of Title 4, unless there is created a duplication in numbering, reads as follows:

No dog or cat may be released for adoption from a releasing agency unless said animal has been surgically spayed or neutered; or unless the adopting party signs an agreement to have the animal sterilized, and deposits funds with the releasing agency to ensure that the adopted animal will be spayed or neutered. The amount of the deposit required shall be determined by each individual releasing agency. In no event shall the required deposit be less than Ten Dollars (\$10.00).

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 499.3 of Title 4, unless there is created a duplication in numbering, reads as follows:

The funds deposited with the releasing agency shall be refunded to the adopting party upon the adopting party's presentation of a written statement signed by a licensed veterinarian that the adopted animal has been spayed or neutered. However, no refunds shall be made unless said animal was spayed or neutered within sixty (60) days of adoption in the case of adult animals; or, in the case of infant animals, within thirty (30) days of the date a female animal attained the age of six (6) months, or a male animal attained the age of eight (8) months.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 499.4 of Title 4, unless there is created a duplication in numbering, reads as follows:

Releasing agencies may adopt any additional rules to implement the Dog and Cat Sterilization Act, provided said rules do not conflict with the provisions or purpose of the Dog and Cat Sterilization Act to require the spaying and neutering of all dogs and cats adopted from releasing agencies. The sterilization agreement to be used by releasing agencies shall be in substantially the following form:

STERILIZATION AGREEMENT

This Agreement is made and entered into this _____ day of _____, 19____, by and between:

(Releasing Agency)

(New Owner)

Name

Name

Address

Address

City

Telephone

City

Telephone

In consideration of the releasing of said animal, and in further consideration of mutual obligations herein, Releasing Agency releases the following animal to the New Owner:

(describe animal)

1. Releasing Agency agrees to release the above listed animal into the care of the New Owner and refund the New Owner's spay/neuter deposit provided that:

(1) The animal is sterilized by a graduate licensed veterinarian by _____ (give date)

(2) A written statement signed by the veterinarian performing the sterilization, that the animal has been sterilized by the stated date is given to the Releasing Agency.

2. New Owner accepts the above listed animal and agrees:

(1) To have the animal sterilized by a graduate licensed veterinarian by _____ (give date)

(2) To provide written evidence to the Releasing Agency from the veterinarian performing the sterilization that the animal has been sterilized by the above date listed.

This Agreement shall be binding upon the assigns, heirs, executors and administrators of the respective parties.

The parties hereto have hereunto set their hands the day and year first above written.

_____ Releasing Agency (signature of agent)

_____ New Owner (signature of)

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 499.5 of Title 4, unless there is created a duplication in numbering, reads as follows:

Upon presentation of a written report from a licensed veterinarian stating that the life or health of an adopted animal may be jeopardized by surgery, the releasing agency shall grant a thirty-day extension of the period within which the spay or neuter surgery would otherwise be required. Further extensions may be granted upon additional veterinary reports stating their necessity.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 499.6 of Title 4, unless there is created a duplication in numbering, reads as follows:

If requested to do so, releasing agencies shall refund deposited funds to the adopting party upon reasonable proof being presented to the releasing agency by the adopting party that the adopted animal died before the expiration of the period during which the spaying or neutering was required to be completed.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 499.7 of Title 4, unless there is created a duplication in numbering, reads as follows:

Funds which have been forfeited by adopting parties shall be placed in a separate account, which shall be an interest bearing account whenever feasible and releasing agencies shall allocate funds from said account to programs which directly promote, subsidize or otherwise reduce the cost of spaying or neutering animals of the releasing agency. The releasing agency shall maintain accurate records of accounts which fund spay/neuter programs.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 499.8 of Title 4, unless there is created a duplication in numbering, reads as follows:

Subject to the provisions and purposes of the Dog and Cat Sterilization Act and laws of the State of Oklahoma, releasing agencies may establish adoption standards for pets in their care; provided, however, that in the case of public facilities said standards must be reasonably related to the prevention of cruelty to animals, the responsible management of dogs and cats in the interest of preserving public health and welfare, and shall be applied in a fair and equal manner to all potential adopters.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 499.9 of Title 4, unless there is created a duplication in numbering, reads as follows:

The provisions of the Dog and Cat Sterilization Act shall not be construed to require the sterilization of dogs and cats which are being held in releasing agencies which might be claimed by their rightful owners; nor shall it be construed to require the sterilization of dogs and cats held pursuant to the provisions of Section 391-402 of Title 4 of the Oklahoma Statutes. Further, the Dog and Cat Sterilization Act shall not be construed to interfere with municipal ordinances that meet or exceed the dog and cat sterilization requirements set forth in the Dog and Cat Sterilization Act.

SECTION 11. NEW LAW A new section of law to be codified in the Okla-

homa Statutes as Section 499.10 of Title 4, unless there is created a duplication in numbering, reads as follows:

Failure to comply with the provisions of the Dog and Cat Sterilization Act shall constitute either a public or private nuisance. Any person may maintain a civil action to enjoin the continuance of said private nuisance. The public nuisance may also be abated by any public body or officer authorized by law to do so.

SECTION 12. This act shall become effective November 1, 1986.

RESPONSIBILITY OF A MOTORIST STRIKING AN ANIMAL

The following statutes describing the responsibility of a motor vehicle operator in Connecticut, Maryland, New Hampshire, New Jersey, New York, Oregon and Rhode Island are specifically designed to protect animals and their owners. In states without such laws, a similar effect may be achieved by means of motor vehicle laws which are designed to protect "property." Pennsylvania, for instance, requires a driver of a motor vehicle to stop and render necessary assistance in any accident in which the driver has caused damage to the property of another.

CONNECTICUT

Section 14-226. *Operator to report injury to dog.* Any person who has knowledge of causing, by the operation of a motor vehicle, injury or death to a dog shall at once stop and render such assistance as may be possible, shall immediately report such injury or death to such dog's owner or such owner's representative and shall give his name, address and operator's license and registration numbers to such owner or representative or any witness or peace officer. If unable to ascertain and locate such owner or representative, such operator shall, at once, report the injury or death to a police officer, constable, state police officer or inspector of motor vehicles, to whom he shall give the location of such accident and a description of the dog. Violation of any provision of this section shall be an infraction. No operator shall be convicted under the provisions of subsection (a) of section 14-224 when such operator has caused injury or death to a dog.

Section 51-164m. (a) The judges of the superior court shall establish and maintain a schedule of fines, to be paid for the violation of the general statutes deemed to be infractions . . . (c) No fine established in accordance with the provisions of subsection (a) of this section shall be in excess of ninety dollars.

MARYLAND

Section 20-106. *Duty on striking domestic animal.*

(a) *Duty of driver.* In addition to the other requirements of this title, if a motor vehicle strikes and injures a domestic animal, the driver of the motor vehicle

immediately shall notify the appropriate state or local police of the accident.

(b) *Police to notify appropriate agency.* On receipt of notice under this section, the police shall notify the local organization or governmental agency designated by the appropriate local government to give such injured animals medical care.

[It is a misdemeanor for any person to violate any of the provisions of the Maryland Vehicle law. Any person convicted of a misdemeanor for the violation of its provisions is subject to a fine of not more than \$500.00 (Section 27-101).]

NEW HAMPSHIRE

Section 264.31. *Report of Injury to Dog.* The driver of any vehicle who knowingly strikes a dog and fails to report the incident to the dog's owner or custodian or to a police officer, as soon as possible, shall be guilty of a violation.

NEW JERSEY

Section 4:22-25.1. *Motorist hitting domestic animal to stop; report.* Each person operating a motor vehicle who shall knowingly hit, run over, or cause injury to a cat, dog, horse or cattle shall stop at once, ascertain the extent of injury, report to the nearest police station, police officer, or notify the nearest Society for the Prevention of Cruelty to Animals and give his name, address, operator's license and registration number, and also give the location of the injured animal.

[The penalty for violation of 4:22-25.1 is from \$5.00 to \$25.00 for the first offense and from \$25.00 to \$50.00 and ten days in jail for the second offense (Section 4:22-25.2).]

NEW YORK

Vehicle and Traffic Code, Section 601. *Leaving scene of injury to certain animals without reporting.* Any person operating a motor vehicle which shall strike and injure any horse, dog or animal classified as cattle shall stop and endeavor to locate the owner or custodian of such animal or a police, peace or judicial officer of the vicinity, and take any other reasonable and appropriate action so that the animal may have necessary attention, and shall also promptly report the matter to such owner, custodian or officer (or if no one of such has been located, then to a police officer of some other nearby community), exhibiting his license and insurance identification card for such vehicle, when such card is required pursuant to articles six and eight of this chapter, giving his name and residence, including street and street number, insurance carrier and insurance identification information and license number. Violation of this provision shall be punishable by a fine of not more than ten dollars for the first offense, by a fine of not less than ten dollars for the second offense and by a fine of not less than twenty-five dollars for the third or a subsequent offense.

OREGON

Section 487.675. *Duty of driver striking animal.*

(1) A driver who knowingly strikes and injures a domestic animal shall stop at once, make a reasonable effort to determine the nature of the animal's

injuries and give reasonable attention to the animal, depending on the traffic hazards then existing. The driver shall immediately report the injury to the animal's owner, and if unable to contact the owner, shall notify a state, county or city peace officer.

(2) A driver who fails to perform any of the duties required under this section commits a Class B traffic infraction.

[The penalty for a Class B traffic infraction is a fine not exceeding \$250.00 (Section 153.615).]

RHODE ISLAND

Section 31-26-3.1. *Duty to stop in accidents resulting in death or injury to domestic animals.*

(a) The driver of any vehicle knowingly involved in an accident resulting in death or injury to a domesticated animal shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of the accident until he shall render all possible assistance to the injured animal, and shall immediately, by the quickest means of communication known to him or which should have reasonably been known to be available to him to be available in the locality, give notice of such accident to the owner of such animal if known to him or to a nearby office of local or state police. In the event the office so notified does not have jurisdiction of the locale of the accident, it shall be the duty of the officer receiving such notice to give notice immediately of such accident to the office having jurisdiction.

(b) Any person failing to stop or comply with the requirements of this section shall upon conviction be punished by a fine of not more than fifty dollars (\$50.00).

PET OWNERSHIP IN ASSISTED RENTAL HOUSING FOR THE ELDERLY OR HANDICAPPED

Public Law 98-181, November 30, 1983

Housing and Urban-Rural Recovery Act of 1983
(12 U.S.C. 1701n-1)

Sec. 277. (a) No owner or manager of any federally assisted rental housing for the elderly or handicapped may—

(1) as a condition of tenancy or otherwise, prohibit or prevent any tenant in such housing from owning common household pets or having common household pets living in the dwelling accommodations of such tenant in such housing; or

(2) restrict or discriminate against any person in connection with admission to, or continued occupancy of, such housing by reason of the ownership of such pets by, or the presence of such pets in the dwelling accommodations of, such person.

(b)(1) Not later than the expiration of the twelve-month period following

the date of the enactment of this Act, the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each issue such regulations as may be necessary to ensure (A) compliance with the provisions of subsection (a) with respect to any program of assistance referred to in subsection (d) that is administered by such Secretary; and (B) attaining the goal of providing decent, safe, and sanitary housing for the elderly or handicapped.

(2) Such regulations shall establish guidelines under which the owner or manager of any federally assisted rental housing for the elderly or handicapped (A) may prescribe reasonable rules for the keeping of pets by tenants in such housing; and (B) shall consult with the tenants of such housing in prescribing such rules. Such rules may consider factors such as density of tenants, pet size, types of pets, potential financial obligations of tenants, and standards of pet care.

(c) Nothing in this section may be construed to prohibit any owner or manager of federally assisted rental housing for the elderly or handicapped, or any local housing authority or other appropriate authority of the community where such housing is located, from requiring the removal from any such housing of any pet whose conduct or condition is duly determined to constitute a nuisance or a threat to the health or safety of the other occupants of such housing or of other persons in the community where such housing is located.

(d) For purposes of this section, the term "federally assisted rental housing for the elderly or handicapped" means any rental housing project that—

(1) is assisted under section 202 of the Housing Act of 1959; or

(2) is assisted under the United States Housing Act of 1937, the National Housing Act, or title V of the Housing Act of 1949, and is designated for occupancy by elderly or handicapped families, as such term is defined in section 202(d)(4) of the Housing Act of 1959.

Excerpts from SUBCHAPTER 12, SALE OF ANIMALS STATE OF NEW JERSEY

Historical Note

All provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 56:8-4 and became effective November 20, 1975 as R. 1975 d. 351 Sec: 7 N.J.R. 231(b), 7 N.J.R. 571(c). The subchapter was repealed and new rules adopted because the Division has become aware of the need for newer and more complete guidelines. The Division originally published a proposal in the June 17, 1987 register at 19 N.J.R. 853(a). This proposal was postponed. The adoption of new rules became effective June 20, 1988 as R. 1988 d. 271. Sec: 20 N.J.R. 501(b), 20 N.J.R. 1463(a).

13:45A-12.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Animal" means a dog or cat.

"Consumer" means any natural person purchasing a dog or cat from a pet dealer.

"Division" means the Division of Consumer Affairs, Department of Law and Public Safety.

"Kennel" means the business of boarding dogs or cats or breeding dogs or cats for sale.

"Person" means any person as defined by N.J.S.A. 56:8-1(d).

"Pet dealer" means any person engaged in the ordinary course of business in the sale of animals for profit to the public.

"Pet shop" means the business of selling, offering for sale or exposing for sale dogs or cats.

"Quarantine" means to hold in segregation from the general animal population any dog or cat because of the presence or suspected presence of a contagious or infectious disease.

"Unfit for purchase" means any disease, deformity, injury, physical condition, illness or defect which is congenital or hereditary and severely affects the health of the animal, or which was manifest, capable of diagnosis or likely to have been contracted on or before the sale and delivery of the animal to the consumer. The death of an animal within 14 days of its delivery to the consumer, except death by accident or as a result of injuries sustained during that period shall mean such animal was unfit for purchase.

13:45A-12.2 General provisions

(a) Without limiting the prosecution of any other practices which may be unlawful under N.J.S.A. 56:8-1 *et seq.*, the following acts, practices or omissions shall be deceptive practices in the conduct of the business of a pet dealer:

1. To sell an animal within the State of New Jersey without an animal history and health certificate and without providing the consumer with a completed animal history and health certificate. The animal history and health certificate shall be signed by the pet dealer, his agent or employee, and shall contain the following information:

- i. The animal's breed, sex, age, color, and birth date;
- ii. The name and address of the person from whom the pet dealer purchased the animal;
- iii. The breeder's name and address, and the litter number of the animal;
- iv. The name and registration number of the animal's sire and dam;
- v. The date the pet dealer took possession of the animal;
- vi. The date the animal was shipped to the pet dealer, where such date is known by the dealer;
- vii. The date or dates on which the animal was examined by a veterinarian licensed to practice in the State of New Jersey, the name and address of such veterinarian, the findings made and the treatment, if any, taken or given to the animal;
- viii. A statement of all vaccinations and inoculations administered to the animal, including the identity and quantity of the vaccine or inoculum administered, the name and address of the person or licensed veterinarian administering the same, and the date of administering the vaccinations and inoculations; and
- ix. A 10-point bold-face type warning in the following form:

WARNING

The animal which you have purchased (check one) ☐ has ☐ has not been previously vaccinated or inoculated. Vaccination or inoculation neither guarantees good health nor assures absolute immunity against disease. Examination by a veterinarian is essential at the earliest possible date to enable your veterinarian to insure the good health of your pet.

2. To fail to maintain a copy of the animal history and health certificate signed by the consumer for a period of one year following the date of sale and/or to fail to permit inspection thereof by an authorized representative of the Division upon two days' notice (exclusive of Saturday and Sunday).

3. To include in the animal history and health certificate any false or misleading statement.

4. To directly or indirectly refer, promote, suggest, recommend or advise that a consumer consult with, use, seek or obtain the services of a licensed veterinarian unless the consumer is provided with the names of not less than three licensed veterinarians of whom only one may be the veterinarian retained by the pet dealer for its purposes.

5. To describe or promote the operation of the business as a "kennel" unless the business operation falls within the definition contained in N.J.A.C. 13:45A-12.1 or the operation of the business as a "kennel" has been authorized by the issuance of a license pursuant to N.J.S.A. 4:19-15.8. In the absence of meeting such criteria, a pet dealer shall be considered to be engaged in the operation of a "pet shop" and shall, where the name for the business operation includes the word "kennel," indicate the following disclaimer in proximate location to the name for the business operation in all promotional or advertising activities:

"This business only engages in the operation of a pet shop."

6. To use or employ a name for the business operation which suggests or implies that such business operation is engaged in or is associated with any organization which registers or certifies the pedigree or lineage of animals and/or to represent, expressly or by implication, approval by or affiliation with such organization, unless the following disclaimer, as appropriate, appears in proximate location to the name for the business operation:

"This business only engages in the operation of a pet shop."

"This business only engages in the operation of a kennel."

7. To state, promise or represent, directly or indirectly, that an animal is registered or capable of being registered with an animal pedigree registry organization, followed by a failure either to effect such registration or provide the consumer with the documents necessary therefor 120 days following the date of sale of such animal. In the event that a pet dealer fails to effect registration or to provide the necessary documents within 120 days following the date of sale, the consumer shall, upon written notice to the pet dealer, be entitled to choose one of the following options:

i. To return the animal and to receive a refund of the purchase price plus sales tax; or

ii. To retain the animal and to receive a partial refund of 75 percent of the purchase price plus sales tax.

8. A pet dealer's failure to comply with the consumer's election pursuant to (a)7 above within 10 days of written notice thereof shall be deemed a separate deceptive practice for purposes of this section.

9. To fail to display conspicuously on the business premises a sign not smaller than 22 inches by 18 inches which clearly states to the public in letters no less than one inch high the following:

KNOW YOUR RIGHTS

The sale of dogs and cats is subject to a regulation of the New Jersey Division of Consumer Affairs. Read your animal history and health certificate, the Statement of New Jersey Law Governing the Sale of Dogs and Cats and your Contract. In the event of a complaint you may contact: Division of Consumer Affairs, 1100 Raymond Boulevard, Newark, New Jersey 07102. (201) 648-3622.

(b) It shall be a deceptive practice within the meaning of this section for a pet dealer to secure or attempt to secure a waiver of any of the provisions contained in (a) above.

13:45A-12.3 Required practices related to the health of animals and fitness for sale and purchase

(a) Without limiting the prosecution of any other practices which may be unlawful under N.J.S.A. 56:8-1 *et seq.*, it shall be a deceptive practice for a pet dealer to sell animals within the State of New Jersey without complying with the following minimum standards relating to the health of animals and fitness for sale and purchase:

- 1. A pet dealer shall have each animal examined by a veterinarian licensed to practice in the State of New Jersey prior to the sale of the animal. The name and address of the examining veterinarian, together with the findings made and treatment (if any) ordered as a result of the examination, shall be noted on each animal's history and health certificate as required by N.J.A.C. 13:45A-12.2(a)lvii.
- 2. A pet dealer shall label and identify each cage as to the:
 - i. Sex and breed of animal;
 - ii. Date and place of birth of each animal; and
 - iii. Name and address of the attending licensed New Jersey veterinarian and the date of initial examination.
- 3. A pet dealer shall be required to quarantine any animal diagnosed as suffering from a contagious or infectious disease, illness or condition until such time as a licensed New Jersey veterinarian determines that such animal is free from contagion or infection. All animals requiring quarantining shall be placed in a quarantine area separated from the general animal population.

STATES PROHIBITING THE USE OF THE
HIGH ALTITUDE DECOMPRESSION CHAMBER*

1. Alaska.....	June 1980
2. Arizona.....	June 1976
3. Arkansas.....	February 1979
4. California	January 1979
5. Connecticut.....	January 1980
6. Delaware	July 1985
7. Florida.....	June 1984
8. Idaho.....	April 1979
9. Indiana.....	May 1987
10. Kansas.....	April 1980

11. Maine	July 1977
12. Maryland.....	January 1980
13. Massachusetts.....	August 1976
14. Michigan.....	December 1980
15. Minnesota.....	May 1985
16. Nevada.....	October 1979
17. New Jersey.....	July 1982
18. New Mexico.....	April 1989
19. New York.....	June 1980
20. Ohio.....	July 1980
21. Oklahoma.....	May 1981
22. Oregon.....	January 1987
23. Pennsylvania.....	December 1983
24. South Carolina.....	April 1980
25. Tennessee.....	February 1980
26. Virginia.....	January 1981
27. Wisconsin.....	November 1985
28. Wyoming.....	March 1981

*Chart courtesy of The Humane Society of the United States.

STATE OF FLORIDA

BIOLOGICAL EXPERIMENTS ON LIVING SUBJECTS
BY STUDENTS IN GRADES K THROUGH 12

233.0674 *Biological experiments on living subjects—*

(1) LEGISLATIVE INTENT—

(a) The Legislature finds that:

- 1. Biological experimentation is essential for an understanding of the complexity and diversity of life processes;
- 2. Such studies should lead to a broader awareness of living systems;
- 3. Capable students anxious to pursue careers in biological sciences should receive appropriate encouragement and guidance; and
- 4. Biological experimentation should be within the comprehension and capabilities of the student undertaking the study.

(b) The Legislature recognizes that the use of live animals in some kinds of experiments by students in grades K through 12 may be distasteful or traumatizing to immature students.

(2) STATE POLICY—It is therefore the intent of the Legislature with respect to biological experiments involving living subjects by students in grades K through 12 that:

(a) No surgery or dissection shall be performed on any living mammalian vertebrate or bird. Dissection may be performed on nonliving mammals or birds secured from a recognized source of such specimens and under supervi-

sion of qualified instructors. Students may be excused upon written request of a parent or guardian.

(b) Lower orders of life and invertebrates may be used in such experiments.

(c) Nonmammalian vertebrates, excluding birds, may be used in biological experiments, provided that physiological harm does not result from such experiments. Anatomical studies shall only be conducted on models which are anatomically correct for the animal being studied or on nonliving nonmammalian vertebrates secured and from a recognized source of such specimens and under the supervision of qualified instructors. Students may be excused from such experiments upon written request of the parent or guardian.

(d) Observational studies of animals in the wild or in zoological parks, gardens, or aquaria, or of pets, fish, domestic animals, or livestock may be conducted.

(e) Studies of vertebrate animal cells, such as red blood cells or other tissue cells, plasma or serum, or anatomical specimens, such as organs, tissues, or skeletons, purchased or acquired from biological supply houses or research facilities or from wholesale or retail establishments which supply carcasses or parts of food animals may be conducted.

(f) Normal physiological and behavioral studies of the human animal may be conducted, provided that such projects are carefully selected so that neither physiological or psychological harm to the subject can result from such studies.

(g) All experiments shall be carried out under the supervision of a competent science teacher who shall be responsible for ensuring that the student has the necessary comprehension for the study to be undertaken. Whenever feasible, specifically qualified experts in the field should be consulted.

(h) Live animals on the premises of public and non-public elementary and secondary schools shall be housed and cared for in a humane and safe manner. Animals shall not remain on the premises of any school during periods when such school is not in session, unless adequate care is provided for such animals.

(3) EXEMPTIONS—The provisions of this section shall not be construed to prohibit or constrain conventional instruction in the normal practices of animal husbandry or exhibition of any livestock in connection with any agricultural program or instruction of advanced students participating in advanced research, scientific studies, or projects.

(4) PENALTY—In the event that any instructional employee of a public high school or area vocational-technical center knowingly or intentionally fails or refuses to comply with any of the provisions of this section, the school board, acting as a board, may suspend, dismiss, return to annual contract, or otherwise discipline such employee as provided in s. 230.23(5) (f) in accordance with procedures established in chapter 231. In the event that any instructional employee of any non-public school knowingly or intentionally fails or refuses to comply with the provisions of this section, the governing authority of such school may suspend, dismiss, or otherwise discipline such employee in accordance with its standard personnel procedures.

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES)

LIST OF PARTY NATIONS

Number of Party Nations 106 (Date of Entry)

Afghanistan (1-28-86)	Guinea (12-20-81)
Algeria (2-21-84)	Guyana (8-25-77)
Argentina (4-8-81)	Honduras (6-13-85)
Australia (10-27-76)	Hungary (8-27-85)
Austria (4-27-82)	India (10-18-76)
Bahamas (9-18-79)	Indonesia (3-28-79)
Bangladesh (2-18-82)	Iran (11-1-76)
Belgium (1-1-84)	Israel (3-17-80)
Belize (9-21-86)	Italy (12-31-79)
Benin (5-28-84)	Japan (11-4-80)
Bolivia (10-4-79)	Jordan (3-14-79)
Botswana (2-12-78)	Kenya (3-13-79)
Brazil (11-4-75)	Liberia (6-9-81)
Burkina Faso (1-11-90)	Liechtenstein (2-28-80)
Burundi (11-6-88)	Luxembourg (3-12-84)
Cameroon, United Republic of (9-3-81)	Madagascar (11-18-75)
Canada (7-9-75)	Malawi (5-6-82)
Central African Republic (11-25-80)	Malaysia (1-18-78)
Chad (5-3-89)	Malta (7-16-89)
Chile (7-1-75)	Mauritius (7-27-75)
China, People's Republic of (4-8-81)	Monaco (7-18-78)
Columbia (11-29-81)	Morocco (1-14-76)
Congo (5-1-83)	Mozambique (6-23-81)
Costa Rica (9-28-75)	Nepal (9-16-75)
Cyprus (7-1-75)	Netherlands (7-18-84)
Denmark (10-24-77)	New Zealand (8-8-89)
Dominican Republic (3-17-87)	Nicaragua (11-4-77)
Ecuador (7-1-75)	Niger (12-7-75)
Egypt (4-4-78)	Nigeria (7-1-75)
El Salvador (7-29-87)	Norway (10-25-76)
Ethiopia (7-4-89)	Pakistan (7-19-76)
Finland (8-8-76)	Panama (11-15-78)
France (8-9-78)	Papua New Guinea (3-11-76)
Gabon (5-15-89)	Paraguay (2-13-77)
Gambia (11-24-77)	Peru (9-25-75)
German Democratic Republic (1-7-76)	Philippines (11-16-81)
Germany, Federal Republic of (6-20-76)	Poland (3-12-90)
Ghana (2-12-76)	Portugal (3-11-81)
Guatemala (2-5-80)	Rwandes Republic (1-18-81)
	Saint Lucia (3-15-83)
	Saint Vincent and the Grenadines (2-28-89)
	Senegal (11-3-77)
	Seychelles (5-9-77)

Number of Party Nations 103 (date of entry)

Singapore (2-28-87)	Tunisia (7-1-75)
Somalia (3-2-86)	Union of Soviet Socialist Republics (12-8-76)
South Africa, Republic of (10-13-75)	United Arab Emirates (5-9-90)
Spain (8-28-86)	United Kingdom (10-31-76)
Sri Lanka (8-2-79)	United States of America (7-1-75)
Sudan (1-24-83)	Uruguay (7-1-75)
Suriname (2-15-81)	Vanuatu (10-15-89)
Sweden (7-1-75)	Venezuela (1-22-78)
Switzerland (7-1-75)	Zaire (10-18-76)
Tanzania, United Republic of (2-27-80)	Zambia (2-22-81)
Thailand (4-21-83)	Zimbabwe (8-17-81)
Togo (1-21-79)	
Trinidad and Tobago (4-19-84)	

STATE LAW LIBRARIES

Following is a listing of State Law Libraries, as compiled by The Council of State Governments. In almost every state, there are additional libraries containing copies of the state law code. The policy of each of the following libraries regarding the admission of the public to use the state law codes may vary. The person in charge is also listed, if such information was available.

Alabama: Supreme Court Law Library, 445 Dexter Ave., Montgomery, AL 36130; (205) 242-4347; William C. Younger, Director.

Alaska: Alaska Court System, 303 K St., Anchorage, AK 99501; (907) 264-0580.

Arizona: State Library, 1700 W. Washington, 3rd Floor, Phoenix, AZ 85007; (602) 542-3701; Ray Tevis, Research Director.

Arkansas: Supreme Court, Justice Building, Little Rock, AR 72201; (501) 374-2512; Jacqueline Wright, Law Librarian.

California: Supreme Court, Supreme Library Building Annex, 455 Golden Gate Ave., #4241, San Francisco, CA 94102; (415) 557-1922; Karen Toran, Law Librarian.

Colorado: Supreme Court Law Library, State Judicial Building, #B112, 2 E. 14th Ave., Denver, CO 80203; (303) 861-1111; Fran Campbell, Librarian.

Connecticut: Law Department, State Library, 231 Capitol Ave., Hartford, CT 06106; (203) 566-7850; Maureen Well, Director.

Delaware: Widener University School of Law, Law Library, Delaware Campus, Box 7475, 4601 Concord Pike, Wilmington, DE 19803.

District of Columbia: D. C. Court of Appeals, 500 Indiana Ave., N. W., Rm. 6085, Washington, DC 20001; (202) 879-2767; Harriet E. Rotter, Librarian.

Florida: Supreme Court, Supreme Court Building, Tallahassee, FL 32399-1926; (904) 488-1531; Brian Polley, Head Librarian.

- Georgia*: State Law Department, Judicial Building, 3rd Floor, 40 Mitchell St., Atlanta, GA 30334; (404) 656-3468; Carroll Parker, State Librarian.
- Hawaii*: Supreme Court Law Library, The Judiciary, 417 S. King St., Honolulu, HI 96813; (808) 548-7432; Momoe Tanaka, Law Librarian.
- Idaho*: Law Library, Supreme Court Building, 451 W. State St., Boise, ID 83720; (208) 334-3317; Laura M. Pershing, Librarian.
- Illinois*: Illinois Supreme Court Library, Supreme Court Building, Springfield, IL 62706; (217) 782-2424; Melanie Solon, Librarian.
- Indiana*: Supreme Court Law Library, 316 State House, Indianapolis, IN 46204; (317) 232-2557; Constance Matts, Law Librarian.
- Iowa*: State Law Library of Iowa, Department of Cultural Affairs, State Capitol, Des Moines, IA 50319; (515) 281-5124.
- Kansas*: Supreme Court Law Library, Judicial Center, Topeka, KS 66612; (913) 296-3257; Fred Knecht, Law Librarian.
- Kentucky*: State Law Librarian, Atrium Off. Plz., Rm. 200, State Capitol, Frankfort, KY 40601; (502) 564-4848.
- Louisiana*: Supreme Court, 301 Loyola Ave., New Orleans, LA 70112; (504) 568-5705; Carol Billings, Librarian.
- Maine*: Law & Legislative Reference Library, State House, Station #43, Augusta, ME 04333; (207) 289-1600; Peter M. Siegel, State Law Librarian.
- Maryland*: State Law Library, Judiciary of Maryland, 361 Rowe Blvd., Annapolis, MD 21401; (301) 974-3395; Michael S. Miller, Director.
- Massachusetts*: Serials Librarian, State Library of Massachusetts, Rm. 442, State House, Boston, MA 02133.
- Michigan*: Law Library Division, Department of Education, P. O. Box 30012, Lansing, MI 48909; (517) 373-0630; Charles Wolfe, Head.
- Minnesota*: State Law Library, 117 University Ave., St. Paul, MN 55155; (612) 296-2084; Marvin R. Anderson, Librarian.
- Mississippi*: Law Library, 2nd Floor, Gartin Building, Jackson, MS 39201; (601) 359-3672; Susan Hicks, State Librarian.
- Missouri*: Supreme Court Library, Supreme Court Building, P. O. Box 448, Jefferson City, MO 65102; (314) 751-2636; Dorothy A. Divilbiss, Librarian.
- Montana*: Supreme Court, Justice Building, Helena, MT 59620; (406) 444-3660; Judith Meadows, Librarian.
- Nebraska*: State Library, State Capitol, 3rd Floor, P. O. Box 94926, Lincoln, NE 68509-4926; (402) 471-3189; Reta Johnson, Deputy State Librarian.
- Nevada*: Law Library, Supreme Court, Supreme Court Building, Carson City, NV 89710; (702) 885-5140; Susan Southwick, Law Librarian.
- New Hampshire*: Law & Legislative Reference, State Library, Supreme Court Building, Noble Dr., Concord, NH 03301; (603) 271-3777; Constance T. Rinden, Librarian.

- New Jersey*: Division of State Library, Department of Education, 185 W. State St., CN520, Trenton, NJ 08625; (609) 292-6230; Robert Bland, Law Coordinator.
- New Mexico*: Supreme Court Law Library, Santa Fe, NM 87503; (505) 827-4850; Kevin Lancaster, Associate Librarian.
- New York*: Court of Appeals, Court of Appeals Hall, 20 Eagle St., Albany, NY 12207; (518) 474-3211; Sol Wachtler, Chief Judge.
- North Carolina*: Supreme Court Library, Justice Building, Rm. 500, P. O. Box 28006, Raleigh, NC 27611-8006; (919) 733-3425; Frances H. Hall, Librarian.
- North Dakota*: Law Library, Supreme Court, Judicial Wing, State Capitol, 600 E. Boulevard, Bismarck, ND 58505; (701) 224-2227; Elmer J. Dewald, Librarian.
- Ohio*: Supreme Court Law Library, 30 E. Broad St., 4th Floor, Columbus, OH 43266-0419; (614) 466-2044; Paul S. Fu, Librarian.
- Oklahoma*: Legislative Reference Library, Department of Libraries, 200 N. E. 18th St., Oklahoma City, OK 73105-3298; (405) 521-2502; Susan Gilley, Director.
- Oregon*: Supreme Court Library, Supreme Court Building, Salem, OR 97310; (503) 378-6030; Roger D. Andrus, Law Librarian.
- Pennsylvania*: Library Services Division, Department of Education, 116 Forum Building, Harrisburg, PA 17120; (717) 783-7014; David Hoffman, Director.
- Rhode Island*: Rhode Island State Law Library, Providence County Courthouse, Providence, RI 02903; (401) 277-3275; Kendall Svengalis, State Law Librarian.
- South Carolina*: Supreme Court Library, Supreme Court Building, Columbia, SC 29201; (803) 734-1080; Janet Myers, Librarian.
- South Dakota*: Supreme Court, State Capitol, 1st Floor, Pierre, SD 57501; (605) 773-4898; Sherry Anderson, Librarian.
- Tennessee*: State Law Library, Supreme Court Building, Nashville, TN 37219; (615) 741-2016; Mary Miles Prince, Librarian.
- Texas*: Law Library, P. O. Box 12367, Austin, TX 78711; (512) 463-1722; W. Kay Schlueter, Director.
- Utah*: Supreme Court Law Library, 125 State Capitol, Salt Lake City, UT 84114; (801) 538-1101; Nancy Cheng, Librarian.
- Vermont*: Reference & Law Division, Department of Libraries, 111 State St., Montpelier, VT 05602; (802) 828-3268; Sybil B. McShane, Librarian.
- Virginia*: Supreme Court of Virginia, 100 N. Ninth St., Richmond, VA 23219; (804) 786-2075; Gail Warren, State Law Librarian.
- Washington*: Law Library, Temple of Justice, M/S: AV-02, Olympia, WA 98504-0502; (206) 357-2135; Debrah Norwood, Director.
- West Virginia*: Law Library, Supreme Court of Appeals, State Capitol, Rm. E-402, Charleston, WV 25305; (304) 348-2607; Richard Rosswurm, Director.
- Wisconsin*: State Law Library, Supreme Court, P. O. Box 7881, Madison, WI 53707; (608) 266-1424; Marcia J. Koslov, Law Librarian.

Wyoming: Law Library, Supreme Court, Supreme Court Building, Cheyenne, WY 82002; (307) 777-7509; Kathy Carlson, Law Librarian.

Guam: Office of the Attorney General, 238 Archbishop F. C. Flores St., Rm. 701, Agaña, GU 96910; (671) 472-6841; Charles A. Troutman, Compiler of Law.

Northern Mariana Islands: Commonwealth Trial Court, P. O. Box 307, Saipan, MP 96950; (670) 234-6401; John Moore, Commonwealth Recorder.

Puerto Rico: Supreme Court Library, P. O. Box 2392, San Juan, PR 00903; (809) 723-3863; Roberto Segarra, Director.

U. S. Virgin Islands: District Court of the Virgin Islands, P. O. Box 3439, Christiansted, St. Croix, VI 00822; (809) 773-1130; David O'Brien, Chief Judge.

THE ALBERT SCHWEITZER MEDAL OF THE ANIMAL WELFARE INSTITUTE

Presented Annually for an Outstanding Contribution to Animal Welfare

In 1954, a gold replica of the Medal was presented to Dr. Albert Schweitzer by Dr. Charles Joy at Oslo, where Dr. Schweitzer had gone to accept the Nobel Peace Prize.

SCHWEITZER MEDALISTS

- 1955 Dr. Robert Bay, veterinarian in charge of a colony of 500 experimental beagles, whose humane treatment of the animals exemplifies the purpose for which the Medal was struck.*
- 1956 Major C. W. Hume, O.B.E., M.C., B.Sc., M.I. Biol., Director-General of the Universities Federation for Animal Welfare, London, England, author, speaker, Founder of U.F.A.W., which pioneered in enlisting scientific efforts for animal welfare.
- 1957 Paul Kearney, author of "The Case for Humane Vivisection," the first article in a national magazine calling for humane treatment of research animals.
- 1958 Senator Hubert H. Humphrey, author of the first humane slaughter bill introduced in the Congress of the United States and Chief Senate Sponsor of the Federal Humane Slaughter Act, passed in 1958.
- 1959 Congressman W. R. Poage, Chairman of the Committee on Agriculture, United States House of Representatives, then Chairman of the Livestock and Feed Grains Subcommittee and Chief House Sponsor of the Federal Humane Slaughter Act.
- 1960 Isobel Slater, M.B.E., Founder, and Chief Z. S. Fundikira, President, Tanganyika Branch of the Royal Society for the Prevention of Cruelty to Animals, with 40,000 African members. Hon. G. Mennen Williams pres-

*Dr. Bay later resigned after being refused permission by new management to end the suffering of a beagle with 24 fractures.

ented the Medals in Africa. In New York, Hon. Adlai Stevenson made the Schweitzer Award address.

- 1961 William H. A. Carr, author, reporter, and animal columnist.
- 1962 Rachel Carson, author of *Silent Spring*.
- 1963 Ann Cottrell Free, author and journalist, whose discovery and reporting on hundreds of Food and Drug Administration test dogs perpetually caged in a sub-basement led to Congressional action providing comfortable kennel runways for them.
- 1964 Patrolman John Mobley of the Detroit Police Force, whose prompt reporting on suffering and neglect of experimental animals led to improvements in their care.
- 1965 Associate Justice of the Supreme Court of the United States Abe Fortas, author of the first federal bill to require humane treatment of research animals.
- 1966 Senator Warren G. Magnuson and Senator A. S. Mike Monroney, who sponsored and fought for enactment of the Laboratory Animal Welfare Act, passed by a vote of 85 to 0 in the United States Senate.
- 1967 Dr. Francis Mulhern and Dr. Earl Jones of the United States Department of Agriculture, who prevented much suffering by enforcement of the Laboratory Animal Welfare Act.
- 1968 Dr. John Quinn, State Veterinarian, Michigan Department of Agriculture, who created the first Animal Welfare Committee of the United States Animal Health Association.
- 1969 Stan Wayman, *Life* photographer, whose "Concentration Camps for Dogs" and other picture stories brought recognition to millions of people that animals need protection.
- 1970 Bob Cromie, whose hard-hitting columns against cruel experiments by schoolchildren resulted in Westinghouse science fair prizes being changed to eliminate any experimentation on captive vertebrates. The Medal was presented by Senator Charles Percy.
- 1971 Hon. Thomas Foley, who won enactment of the Animal Welfare Act amendments of 1970 including the requirement for "appropriate use of anesthetic, analgesic and tranquilizing drugs" for experimental animals. The Medal was presented by Senator Warren G. Magnuson.
- 1972 Russell Train, Chairman, President's Council on Environmental Quality, who obtained unanimous adoption of a resolution for a ten-year international moratorium on commercial whaling. The Medal was presented by S. Dillon Ripley, Secretary of the Smithsonian Institution.
- 1973 Scott McVay, who obtained the listing of all the great whales on the U. S. Endangered Species List. The Medal was presented by Dr. Lee Talbot, Senior Scientist, Council on Environmental Quality.
- 1974 Dr. Lee Talbot, who successfully fought cruel poisons spread on federal lands. The Medal was presented by Hon. Russell Train, Administrator of the Environmental Protection Agency.
- 1975 Fay Brisk, who uncovered cruelty and theft by laboratory dog dealers in the 1960s and initiated an animalport in Washington, D. C. to help animals transported by air. The Medal was presented by Senator Lowell Weicker.
- 1976 Daniel Oduber, President of Costa Rica, for outstanding achievement in creating major national parks, in Costa Rica, where wildlife can flourish. The Medal presentation was by Senator Hubert H. Humphrey.

- 1977 Yoko Muto, animal caretaker at Tokyo University and representative of the Japan Animal Welfare Society, for her seven years' unstinting efforts to allay the suffering of thousands of dogs used for experimental surgery, by gentle, personal nursing given each animal. The presentation was made by Ambassador Mike Mansfield.
- 1979 Shri H. M. Patel, Chairman of the Indian Board for Wildlife and author of *A Policy for National Conservation*, for his contributions to wildlife conservation and humane education as Indian Minister of Finance.
- 1980 Roger and Katharine Payne, for leadership in the protection of whales through observation of living Humpback and Right whales. Medal presentation by Senator Paul Tsongas.
- 1981 Dr. Dallas Pratt for his landmark books, especially *Alternatives to Pain in Experiments on Animals*. Medal presented by Senator Mark Hatfield.
- 1986 Senator Robert Dole, whose leadership ensured enactment of the 1985 Improved Standards for Laboratory Animals Act and of the 1978 humane slaughter legislation.
- 1987 Jane Goodall, for her leadership in fighting for protection of chimpanzees in the wild and in laboratories. Senator John Melcher, author of the requirement for psychological well-being of primates, presented the Medal.
- 1988 Astrid Lindgren, for achieving enactment of the world's most comprehensive law against cruel factory farming practices. Medal presentation by Congressman Charles Bennett. Mrs. Lindgren is the author of many children's stories which are classics, not only in Swedish literature, but in translations throughout the world.
- 1990 Allan Thornton and Dave Currey of the Environmental Investigation Agency for achieving international protection for elephants and dolphins by revealing cruel and illicit commercial killing.

SOME PUBLICATIONS OF THE ANIMAL WELFARE INSTITUTE

- The Endangered Species Handbook*, by Greta Nilsson, 1986.
- First Aid and Care of Small Animals*, by Ernest P. Walker, second edition 1980.
- The Bird Business: A Study of the Commercial Cage Bird Trade*, by Greta Nilsson, 1981.
- Importation of Birds into the United States 1980-1984*, Vols. I and II, by Greta Nilsson, 1985 (available on loan for reference).
- Importation of Birds into the United States in 1985, With Discussion of Recent Developments and Research in the Cage Bird Trade*, by Greta Nilsson, 1989.
- Importation of Birds into the United States 1986-1988*, by Greta Nilsson, 1990.
- Injury, Damage to Health and Cruel Treatment: Present Conditions in the Shipment of Live Fauna*, Environmental Investigation Agency, 1985.
- The Trade in Live Wildlife*, Environmental Investigation Agency, 1987.
- The African Elephant Disaster, A System of Extinction*, Environmental Investigation Agency, 1989.
- The Global War Against Small Cetaceans*, Environmental Investigation Agency, 1990.

Whales vs. Whalers: A Continuing Commentary, 1971-1990.

Facts About Furs, by Greta Nilsson and others, revised edition 1980.

Monographs on alternative traps by Tom Garrett: *The Role of Cage and Box Traps in Modern Trapping*, 1988; *The Role of Spring Powered Killing Traps in Modern Trapping*, 1990; *The Role of Leg Snares in Modern Trapping*, 1990.

Factory Farming: The Experiment that Failed, 1987.

Comfortable Quarters for Laboratory Animals, AWI revised edition 1979.

Beyond the Laboratory Door, 1985.

Animals, Nature and Albert Schweitzer, by Ann Cottrell Free, revised edition 1988.

The Status of Animals in the Christian Religion, by Major C. W. Hume, O.B.E., M.C., B.Sc., illustrated by Fougasse, Universities Federation for Animal Welfare, 1956, reprinted in paperback 1980.

The Neighbours, an animal anthology compiled and illustrated by Fougasse, Universities Federation for Animal Welfare, 1954, reprinted 1957, 1963 and 1967.

Man and Beast, by Major C. W. Hume, O.B.E., M.C., B.Sc., with drawings by Fougasse, Universities Federation for Animal Welfare, second edition 1982.

Individual copies of AWI publications are available free on request to libraries and animal protective organizations.

Schoolteachers may obtain one free copy on request of *First Aid and Care of Small Animals* and *The Endangered Species Handbook* (please use school letterhead and indicate grade level).

Veterinarians, scientists, and persons employed in scientific institutions may obtain one free copy on request of *Comfortable Quarters for Laboratory Animals* and *Beyond the Laboratory Door*.

For a free listing of educational materials and AWI publications, write to:

Animal Welfare Institute
P. O. Box 3650
Washington, D. C. 20007

HEARINGS ON ANIMAL PROTECTIVE BILLS 1956 - 1989

Humane Slaughtering of Livestock and Poultry. Hearings before a Subcommittee of the Committee on Agriculture and Forestry, United States Senate, Eighty-fourth Congress, Second Session, on S. 1636, a bill to require the use of humane methods in the slaughter of livestock and poultry in interstate or foreign commerce and for other purposes; May 9 and 19, 1956. (Hearings conducted by Senator Hubert H. Humphrey.)

Humane Slaughter. Hearings before the Subcommittee on Livestock and Feed Grains of the Committee on Agriculture, House of Representatives, Eighty-fifth Congress, First Session, on H.R. 176, H.R. 2880, H.R. 3029, H.R. 3049, H.R. 5671,

H.R. 5820, H.R. 6422 and H.R. 6509; April 2 and 12, 1957. (Hearings conducted by Congressman W. R. Poage.)

Humane Slaughtering of Livestock. Hearings before the Committee on Agriculture and Forestry, United States Senate, Eighty-fifth Congress, Second Session, on S. 1213, S. 1497 and H.R. 8308, Proposals Relating to Humane Methods of Slaughter of Livestock; April 28, 29, 30 and May 1, 1958. (Hearings conducted by Senator Allen J. Ellender.)

Humane Treatment of Animals Used in Research. Hearings before a Subcommittee of the Committee on Interstate and Foreign Commerce, House of Representatives, Eighty-seventh Congress, Second Session, on H.R. 1937, a bill to provide for the humane treatment of animals used in experiments and tests by recipients of grants from the United States and by agencies and instrumentalities of the U. S. Government and for other purposes, and H.R. 3556, a bill to provide for humane treatment of animals used in experiment and research by recipients of grants from the United States and for other purposes; September 28 and 29, 1962. (Hearings conducted by Congressman Kenneth A. Roberts.)

Wild Birds and Wild Animals. Hearings before the Committee on Finance, United States Senate, Eighty-eighth Congress, First Session, on H.R. 1839, an act to amend the tariff act of 1930 to provide for the free importation of wild animals and wild birds which are intended for exhibition in the United States; July 23, 1963. (Hearings conducted by Senator Harry F. Byrd.)

Regulate the Transportation, Sale, and Handling of Dogs and Cats Used for Research and Experimentation. Hearings before the Subcommittee on Livestock and Feed Grains of the Committee on Agriculture, House of Representatives, Eighty-ninth Congress, First Session, on H.R. 9743, H.R. 9750, H.R. 9869, H.R. 9875, H.R. 10197, H.R. 10358, H.R. 10680, H.R. 10743 and H.R. 10745; September 2, 1965. (Hearings conducted by Congressman W. R. Poage.)

Regulate the Transportation, Sale, and Handling of Dogs and Cats Used for Research and Experimentation. Hearings before the Subcommittee on Livestock and Feed Grains of the Committee on Agriculture, House of Representatives, Eighty-ninth Congress, Second Session, on H.R. 9743, H.R. 9750, H.R. 9869, H.R. 9875, H.R. 10197, H.R. 10358, H.R. 10680, H.R. 10743, H.R. 10745, H.R. 11002, H.R. 11195, H.R. 11505, H.R. 12295, H.R. 12488, H.R. 12667, H.R. 12842, H.R. 12903, H.R. 12923, H.R. 12941, H.R. 12962, H.R. 13017, H.R. 13075, H.R. 13240, H.R. 13261, H.R. 13287, H.R. 13291, H.R. 13321, H.R. 13343, H.R. 13346, H.R. 13352 and H.R. 13406; March 7 and 8, 1966. (Hearings conducted by Congressman W. R. Poage.)

Animal Dealer Regulation. Hearings before the Committee on Commerce, United States Senate, Eighty-ninth Congress, Second Session, on S. 2322, a bill to authorize the Secretary of Agriculture to regulate the transportation, sale, and handling of dogs and cats intended to be used for purposes of research or experimentation and for other purposes; S. 3059, a bill to authorize the Secretary of Agriculture to regulate the transportation, sale, and handling of dogs, cats, and other animals intended to be used for purposes of research or experimentation and for other purposes; S. 3138, a bill to authorize the Secretary of

Agriculture to regulate the transportation, purchase, sale, and handling of dogs and cats in commerce; March 25, 28 and May 25, 1966. (Hearings conducted by Senator Warren Magnuson and Senator A. S. Mike Monroney.)

Endangered Species. Hearings before the Subcommittee on Fisheries and Wildlife Conservation of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninetieth Congress, First Session, on H.R. 6138, H.R. 8693 and H.R. 11618, bills to prevent the importation of endangered species of fish or wildlife into the United States; to prevent the interstate shipment of reptiles, amphibians, and other wildlife taken contrary to state law; and for other purposes; October 4, 1967. (Hearings conducted by Congressman John D. Dingell.)

Endangered Species. Hearings before the Subcommittee on Merchant Marine and Fisheries of the Committee on Commerce, United States Senate, Ninetieth Congress, Second Session, on S. 2984 and H.R. 11618, to prevent the importation of endangered species of fish or wildlife into the United States; to prevent the interstate shipment of reptiles, amphibians, and other wildlife taken contrary to state law; and for other purposes; July 24, 1968. (Hearings conducted by Senator Daniel B. Brewster.)

Endangered Species. Hearings before the Subcommittee on Fisheries and Wildlife Conservation of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-first Congress, First Session, on H.R. 248, H.R. 992, H.R. 3790, H.R. 4812, H.R. 5252, H.R. 6634, bills to prevent the importation of endangered species of fish or wildlife into the United States; to prevent the interstate shipment of reptiles, amphibians, and other wildlife taken contrary to state law; and for other purposes; February 19 and 20, 1969. (Hearings conducted by Congressman John D. Dingell.)

Endangered Species. Hearings before the Subcommittee on Energy, Natural Resources, and the Environment of the Committee on Commerce, United States Senate, Ninety-first Congress, First Session, on S. 335, S. 671 and S. 1280, to prevent the importation of endangered species of fish or wildlife into the United States; to prevent the interstate shipment of reptiles, amphibians and other wildlife taken contrary to state law; and for other purposes; May 14 and 15, 1969. (Hearings conducted by Senator Philip A. Hart.)

Horse Protection Act of 1969. Hearings before the Subcommittee on Energy, Natural Resources, and the Environment of the Committee on Commerce, United States Senate, Ninety-first Congress, First Session, on S. 2543, to protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes; September 17, 1969. (Hearings conducted by Senator Joseph D. Tydings.)

Shooting Animals from Aircraft. Hearings before the Subcommittee on Fisheries and Wildlife Conservation of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-first Congress, Second Session, on H.R. 15188, H.R. 15400, H.R. 15562, and H.R. 16559, bills to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft; March 16, 1970. (Hearings conducted by Congressman John D. Dingell.)

Care of Animals Used for Research, Experimentation, Exhibition, or Held for Sale as Pets. Hearings before the Subcommittee on Livestock and Grains of the Committee on Agriculture, House of Representatives, Ninety-first Congress, Second Session, on H.R. 13957; June 8 and 9, 1970. (Hearings conducted by Congressman Graham Purcell.)

Horse Protection Act of 1970. Hearings before the Subcommittee on Public Health and Welfare of the Committee on Interstate and Foreign Commerce, House of Representatives, Ninety-first Congress, Second Session, on H.R. 14151 and H.R. 15261, bills to protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes (and identical bills) and S. 2543, an act to prohibit the movement in interstate or foreign commerce of horses which are "sored," and for other purposes (and identical bills); September 21, 1970. (Hearings conducted by Congressman John Jarman.)

Marine Mammals. Hearings before the Subcommittee on Fisheries and Wildlife Conservation of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-second Congress, First Session, on H.R. 690, H.R. 4370, H.R. 4733, H.R. 6554, H.R. 6558, H.R. 6801, H.R. 6804, H.R. 7217, H.R. 7229, H.R. 7431, H.R. 7463, H.R. 7477, H.R. 7530, H.R. 7555, H.R. 7556, H.R. 7638, H.R. 7706, H.R. 7794, H.R. 7861, H.R. 7891, H.R. 7952, H.R. 8105, H.R. 8183, H.R. 8255, H.R. 8391, H.R. 8526, H.R. 8804, H.R. 9041, H.R. 9356, H.R. 9409, H.R. 9557, H.R. 9917, H.R. 10420, H.R. 10569, H.R. 10803, H.R. 10814, H. Con. Res. 77 and H. Con. Res. 173, Legislation for the Preservation and Protection of Marine Mammals; September 9, 13, 17, and 23, 1971. (Hearings conducted by Congressman John D. Dingell.)

Ocean Mammal Protection. Hearings before the Subcommittee on Oceans and Atmosphere of the Committee on Commerce, United States Senate, Ninety-second Congress, Second Session, on S. 685, 1315, 2579, 2639, 2871, 3112, 3161, and amendment 1048, ocean mammal legislation; February 12, 15, 16, March 7, and May 11, 12, and 13, 1972. (Hearings conducted by Senator Ernest F. Hollings.)

Predatory Mammals and Endangered Species. Hearings before the Subcommittee on Fisheries and Wildlife Conservation of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-second Congress, Second Session, on Predatory Mammals. H.R. 689, H.R. 1081, H.R. 3561, H.R. 7260, H.R. 8256, H.R. 8673, H.R. 9668, H.R. 10214, H.R. 10231, H.R. 10418, H.R. 11785, H.R. 13152, H.R. 13153, H.R. 13261; Endangered Species, H.R. 3616, H.R. 3844, H.R. 7154, H.R. 7240, H.R. 8099, H.R. 8258, H.R. 8505, H.R. 8507, H.R. 12986, H.R. 13081, H.R. 13111, H.R. 13489, H.J. Res. 873; March 20, 21, and April 10, 11, 1972. (Hearings conducted by Congressman John D. Dingell.)

Endangered Species. Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-third Congress, First Session, on H.R. 37, H.R. 470, H.R. 471, H.R. 1461, H.R. 1511, H.R. 2669, H.R. 2735, H.R. 3310, H.R. 3696, H.R. 3795, H.R. 4755, H.R. 4758, bills to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife

that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes; H.R. 2169, a bill to implement the convention on nature protection and wildlife preservation in the Western Hemisphere, and for other purposes; March 15, 26 and 27, 1973. (Hearings conducted by Congressman John D. Dingell.)

Predatory Animals. Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-third Congress, First Session, on H.R. 38, H.R. 3309, H.R. 3393, H.R. 3612, H.R. 3635, H.R. 4617, H.R. 5321, H.R. 5496, bills to authorize the Secretary of the Interior to assist the states in controlling damage caused by predatory animals; to establish a program of research concerning the control and conservation of predatory animals; to restrict the use of toxic chemicals as a method of predator control; and for other purposes; and H.R. 4759, a bill to authorize the Secretary of the Interior to assist the states in controlling damage caused by predatory and depredating animals; to establish a program of research concerning the control and conservation of predatory and depredating animals; to restrict the use of toxic chemicals as a method of predatory control; and for other purposes; March 19 and 20, 1973. (Hearings conducted by Congressman John D. Dingell.)

Predator Control. Hearings before the Subcommittee on the Environment of the Committee on Commerce, United States Senate, Ninety-third Congress, First Session, on S. 819 to authorize a national policy and program with respect to wild predatory mammals; to prohibit the poisoning of animals and birds on the public lands of the United States; to regulate the manufacture, sale, and possession of certain chemical toxicants, and for other purposes; and S. 887 to authorize the Secretary of the Interior to assist the states in controlling damage caused by predatory and depredating animals; to establish a program of research concerning the control and conservation of predatory and depredating animals; to restrict the use of toxic chemicals as a method of predator control; and for other purposes; March 27, 29, and May 10, 1973. (Hearings conducted by Senator Adlai E. Stevenson.)

Horse Protection Act of 1970. Hearings before the Committee on Commerce, United States Senate, Ninety-third Congress, First Session, on Horse Protection Act of 1970; May 2, 1973. (Hearings conducted by Senator John Tunney.)

Endangered Species Act of 1973. Hearings before the Subcommittee on Environment of the Committee on Commerce, United States Senate, Ninety-third Congress, First Session, on S. 1591 and S. 1983, to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are presently threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes; June 18 and 21, 1973. (Hearings conducted by Senator Ted Stevens and Senator Frank E. Moss.)

Problems in Air Shipment of Domestic Animals. Hearings before a Subcommittee of the Committee on Government Operations, House of Representatives, Ninety-third Congress, First Session; September 25, 26, 27 and 28, 1973. (Hearings conducted by Congressman Floyd V. Hicks.)

Animal Welfare Act Amendments of 1974. Hearings before the Subcommittee on

Livestock and Grains of the Committee on Agriculture, House of Representatives, Ninety-third Congress, Second Session, on H.R. 15843, H.R. 16738, and Related Bills; August 6, 7, 8, 13, 14, 15, September 30, and October 2, 1974. (Hearings conducted by Congressman Thomas S. Foley.)

Fish and Wildlife Miscellaneous. Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-third Congress, Second Session, on Import Restrictions, H.R. 15039, H.R. 15289, H.R. 15290, H.R. 15508, H.R. 15626, H.R. 15802, H.R. 16179, H.R. 16245, H.R. 16393, June 10, 1974; Endangered Species Act Amendment, H.R. 15893 and H.R. 16079, July 29, 1974; Incidental Taking of Marine Mammals, H.R. 15273, H.R. 15459, H.R. 15549, H.R. 15810, H.R. 15967, H.R. 16043, H.R. 16777; August 8 and 9, 1974. (Hearings conducted by Congressman John D. Dingell.)

Marine Mammal Protection Oversight. Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-fourth Congress, First Session; October 21, 29, 30 and December 9, 1975. (Hearings conducted by Congressman Robert L. Leggett.)

Painful Trapping Devices. Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-fourth Congress, First Session, on H.R. 66, H.R. 790, H.R. 5429, H.R. 6651, H.R. 8367, H.R. 9918, H.R. 10099, H.R. 10316, H.R. 10369, H.R. 10586, H.R. 10652 and H.R. 10770, to discourage the use of painful devices in the trapping of animals and birds; November 17 and 18, 1975. (Hearings conducted by Congressman Robert L. Leggett.)

Marine Mammal Amendments. Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-fourth Congress, Second Session, on Save the Great Whales—H.J. Res. 923 to save the great whales from extinction by amending the Fishermen's Protective Act of 1967 to impose an embargo on the products of certain foreign enterprises engaged in commercial whaling, April 30, 1976; Killer Whales—H.R. 12460, H.R. 12646, S. 3130, bills to amend the Marine Mammal Protection Act of 1972 in order to prohibit the taking of the killer whale, and for other purposes, May 4, 1976; Tuna-Porpoise Amendments—H.R. 13865, H.R. 13883, bills to amend the Marine Mammal Protection Act of 1972 with respect to the taking of marine mammals incidental to the course of commercial fishing operations, May 20, 21 and 24, 1976. (Hearings conducted by Congressman Robert L. Leggett.)

Commission on Humane Treatment of Animals. Hearings before the Subcommittee on Livestock and Grains of the Committee on Agriculture, House of Representatives, Ninety-fourth Congress, Second Session, on H.R. 11112; September 30, 1976. (Hearings conducted by Congressman W. R. Poage.)

Marine Mammal Protection Act. Hearings before the Committee on Commerce, Science and Transportation, United States Senate, Ninety-fifth Congress, First Session, Oversight into the Marine Mammal Protection Act; February 9 and 11, 1977. (Hearings conducted by Senator Daniel K. Inouye.)

Marine Mammals. Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-fifth Congress, First Session, Marine Mammal Oversight, February 17, 1977; Tuna-Porpoise Regulations, March 2, 1977; Marine Mammal Authorization—H.R. 4740—March 15, 1977. (Hearings conducted by Congressman Robert L. Leggett.)

Tuna-Porpoise. Hearings before the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-fifth Congress, First Session, on Reducing Porpoise Mortality, H.R. 6146, H.R. 6409, H.R. 6729, H.R. 6807, H.R. 6907, H.R. 6928, and H.R. 6970 to amend the Marine Mammal Protection Act of 1972 with respect to the taking of marine mammals incidental to the course of commercial fishing operations, May 13 and 16, 1977; Tuna-Porpoise Oversight, August 1, 1977. (Hearings conducted by Congressman John M. Murphy.)

Reauthorization of the Marine Mammal Protection Act of 1972. Hearings before the Committee on Commerce, Science, and Transportation, United States Senate, Ninety-fifth Congress, Second Session, on S. 2831 to authorize appropriations for Fiscal Years 1979 and 1980 to carry out the Marine Mammal Protection Act of 1972 and H.R. 10730 to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during Fiscal Years 1979, 1980, and 1981; May 3, 1978. (Hearings conducted by Senator Bob Packwood.)

Humane Slaughtering of Livestock. Hearings before the Subcommittee on Livestock and Grains of the Committee on Agriculture, House of Representatives, Ninety-fifth Congress, Second Session, on H.R. 1464 to require humane slaughter of all animals whose meat is imported into the United States; to empower federal meat inspectors to halt slaughter if a single animal is slaughtered inhumanely; April 25 and June 8, 15, 1978. (Hearings conducted by Congressman W. R. Poage.)

Humane Slaughtering of Livestock. Hearings before the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, United States Senate, Ninety-fifth Congress, Second Session, on S. 3092 to require humane slaughter of all animals whose meat is imported into the United States; to empower federal meat inspectors to halt slaughter if a single animal is slaughtered inhumanely; June 15, 1978. (Hearings conducted by Senator Robert Dole.)

Proposals to Ban Commercial Whaling; Markup; Review of the 31st Session of the International Whaling Commission. Hearings and markup before the Subcommittee on International Organizations of the Committee on Foreign Affairs, House of Representatives, Ninety-sixth Congress, First Session; May 24, June 14, and July 25, 1979. (Hearings conducted by Congressman Don Bonker.)

Outlaw Whaling. Hearings before the Committee on Commerce, Science, and Transportation, United States Senate, Ninety-sixth Congress, First Session, on whaling operations conducted outside the control of the International Whaling Commission; June 22, 1979. (Hearings conducted by Senator Warren G. Magnuson.)

Review of the 32d International Whaling Commission Meeting. Hearings before the Subcommittee on International Organizations of the Committee on Foreign Affairs, House of Representatives, Ninety-sixth Congress, Second Session, on the 32d International Whaling Commission meeting, July 21-26, 1980, Brighton, England; September 10, 1980. (Hearings conducted by Congressman Don Bonker.)

Lacey Act Amendments. Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-seventh Congress, First Session; March 18, 1981.

Lacey Act Amendments to Control Illegally Taken Fish and Wildlife. Hearings before the Subcommittee on Environmental Pollution of the Committee on Environment and Public Works, United States Senate, Ninety-seventh Congress, First Session; April 1, 1981. (Hearings conducted by Senator John Chafee.)

Marine Mammal Protection Act Reauthorization. Hearings before the Commerce, Science and Transportation Committee, United States Senate, Ninety-seventh Congress, First Session; April 3, 1981.

Marine Mammal Protection Act Reauthorization. Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, Ninety-seventh Congress, First Session; April 7, 1981.

Review of the 33d International Whaling Commission Meeting. Hearings before the Subcommittee on Human Rights and International Organizations of the Committee on Foreign Affairs, House of Representatives, Ninety-seventh Congress, First Session, on the 33d meeting of the International Whaling Commission, Brighton, England; September 22, 1981. (Hearings conducted by Congressman Don Bonker.)

Laboratory Animals. Hearings before the Subcommittee on Science, Research and Technology of the Committee on Science and Technology, House of Representatives, Ninety-seventh Congress, First Session, on bills concerning alternatives and/or regulation of animal experimentation; October 13 and 14, 1981. (Hearings conducted by Congressman Doug Walgren.)

Endangered Species Act Reauthorization. Hearings before the Subcommittee on Environmental Pollution of the Committee on Environment and Public Works, United States Senate, Ninety-seventh Congress, Second Session; April 19, 1982. (Hearings conducted by Senator John Chafee.)

Preparations for the 34th International Whaling Commission Meeting. Hearings before the Subcommittee on Human Rights and International Organizations of the Committee on Foreign Affairs, House of Representatives, Ninety-seventh Congress, Second Session; June 9, 1982. (Hearings conducted by Congressman Don Bonker.)

Review of the 34th International Whaling Commission Meeting. Hearings before the

Subcommittee on Human Rights and International Organizations of the Committee on Foreign Affairs, House of Representatives, Ninety-seventh Congress, Second Session; September 16, 1982. (Hearings conducted by Congressman Don Bonker.)

Laboratory Animals. Hearings before the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives, Ninety-seventh Congress, Second Session, on the Walgren bill, a composite of the seven bills on alternatives and/or regulation of animal experimentation; December 9, 1982. (Hearings conducted by Congressman Henry Waxman.)

Laboratory Animals. Hearings before the Committee on Agriculture, Nutrition and Forestry, United States Senate, Ninety-eighth Congress, First Session, on Senator Dole's amendment to the Animal Welfare Act, Improved Standards for Laboratory Animals; July 20, 1983. (Hearings conducted by Senator Robert Dole.)

Enforcement of the Lacey Act. Hearings before the Subcommittee on Environmental Pollution of the Committee on Environment and Public Works, United States Senate, Ninety-eighth Congress, Second Session; June 26, 1984.

Steel Jaw Leghold Traps. Hearings before the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives, Ninety-eighth Congress, Second Session; July 23, 1984. (Hearings conducted by Congressman Henry Waxman.)

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U. S. Policy with Respect to the International Protection of Whales. Hearings and markup before the Committee on Foreign Affairs and its Subcommittee on Human Rights and International Organizations, House of Representatives, Ninety-ninth Congress, First Session, on H. Con. Res. 54, to urge that all diplomatic and legal means possible be taken to achieve compliance with IWC decisions; May 8, June 19, and September 19, 1985. (Hearings conducted by Congressman Gus Yatron.)

Captive Raptors. Amendment to the Endangered Species Act on interstate and foreign commerce in captive raptors, relating to "Operation Falcon" in which the U. S. Fish and Wildlife Service found 400 violations of federal law. Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Envi-

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Marine Mammal Protection Act Reauthorization. Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, One Hundredth Congress, Second Session, on reauthorization of the Marine Mammal Protection Act of 1972, examining the question of minimizing the take of dolphins or porpoise in the course of yellowfin tuna fishing in the Pacific Ocean; September 8, 1988. (Hearings conducted by Congressman Gerry E. Studds.)

Pet Theft Act. Hearings before the Subcommittee on Departmental Operations, Research and Foreign Agriculture of the Committee on Agriculture, House of Representatives, One Hundredth Congress, Second Session; October 3, 1988. (Hearings conducted by Congressman George E. Brown, Jr.)

Veal Calf Protection Act. Hearings before the Subcommittee on Departmental Operations, Research and Foreign Agriculture of the Committee on Agriculture, House of Representatives, One Hundred-first Congress, First Session; June 6, 1989. (Hearings conducted by Congressman Charles W. Stenholm.)

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